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ABSTRACT

The monograph presents the transcript of the March 27, 1979 oversight hearing on education of handicapped children conducted by the House Subcommittees on Elementary, Secondary, and Vocational Education and Select Education. Nine statements of such persons as F. Bowe, director of American Coalition of Citizens with Disabilities, Inc., ; S. Kendrick, executive director of United Cerebral Palsy Association of Wisconsin; and M. Morris, executive director of Georgia Association of Retarded Citizens, are included regarding fiscal expenditures for P.L. 94-142, the Education for All Handicapped Children Act. Letters, prepared statements and supplemental materials are also included in addition to testimony. (CL)

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OVERSIGHT HEARING ON EDUCATION OF HANDICAPPED CHILDREN

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HEARING

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

JOINTLY WITH THE

SUBCOMMITTEE ON SELECT EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, D.C., ON
MARCH 27, 1979

Printed for the use of the Committee on Education and Labor

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OVERSIGHT HEARING ON EDUCATION OF HANDICAPPED CHILDREN

TUESDAY, MARCH 27, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND
VOCATIONAL EDUCATION JOINTLY WITH THE
SUBCOMMITTEE ON SELECT EDUCATION,
Washington, D.C.

The subcommittee convened, pursuant to notice, at 9:45 a.m., in room 2261, Rayburn House Office Building, Hon. Paul Simon (chairman of the Subcommittee on Select Education) presiding.

Members present: Representatives Perkins (chairman of the Subcommittee on Elementary, Secondary, and Vocational Education), Simon, Brademas, Beard, Miller, Kildee, Erdahl, and Kramer.

Staff present: John F. Jennings, counsel; Jack Duncan, counsel; Judith Wagner; staff director; and Martin LaVor, minority senior legislative associate.

Mr. SIMON. The committee will come to order.

The chairman of the Committee on Education and Labor and the Subcommittee on Elementary, Secondary, and Vocational Education, Mr. Perkins, is tied up temporarily in another meeting. He will be coming along shortly.

We have called this meeting because there are some very vital programs on which some very important budgetary decisions have to be made. We felt that it was important for this Subcommittee on Select Education as well as the Subcommittee on Elementary, Secondary, and Vocational Education to have the input of the witnesses here today, both for the members of our committee, and for the record, to see what the impact of those budgetary suggestions may be, and in what direction we ought to be going.

I would like, first of all, to recognize my predecessor as the chairman of the Select Subcommittee on Education, one of the most distinguished members of this body, and the majority whip of the House, Mr. Brademas.

Mr. BRADEMAS. Thank you very much, Mr. Chairman.

I would just like to say a couple of words before you get into your hearing.

First of all, I want to commend you for having taken the chairmanship of this subcommittee. I had the privilege of serving as chairman of it for 10 years. I could not be more pleased that a so able and so dedicated Member of the House of Representatives as Paul Simon, an old friend of mine for many years, is assuming this responsibility, because I know that under his leadership, it will do a very constructive job.

Second of all, I want to commend the chairman of the subcommittee as well as another valued friend of mine, the gentleman from Michigan, Mr. Ford, the chairman of the Subcommittee on Postsecondary Education, and the chairman of the full committee for their interest in the subject of this hearing.

As House sponsor of Public Law 94–142, the Education for All Handicapped Children Act, naturally I have a deep interest in this program being effectively implemented. On a number of occasions, I have tried to suggest that it was my own view that this Congress ought to give more attention than we have earlier been able to do, to the effectiveness with which the legislation is being carried out across this country.

I think the legislation is sound legislation, good legislation, but I think that our subcommittee has a responsibility to listen to criticisms, complaints, suggestions, recommendations for more effectively, wisely, responsively administering the act.

For all those reasons, Mr. Chairman, I want to commend you for the hearings that you have undertaken today, and to wish you well in the future.

Thank you, Mr. Chairman.

Mr. SIMON. Thank you.

Are there any other opening comments that anyone wishes to make? If not, we will proceed to our first witness, Senator Arthur Berman of the State of Illinois, and chairman of the Education Committee, an old friend.

We are very pleased to have you with us here, Senator.

STATEMENT OF SENATOR ARTHUR BERMAN, CHAIRMAN, EDUCATION COMMITTEE, ILLINOIS STATE SENATE

Mr. BERMAN. Thank you, Mr. Chairman.

I appreciate the opportunity of being here, and I am especially pleased this morning to appear in front of one of the most famous and respected alumni of the Illinois Legislature, Congressman Simon. We are proud of his chairmanship of the Subcommittee on Select Education, not only the citizens of Illinois, but of the country, because of his past commitment to education.

Congressman Brademas, it is nice to see you again. A few years ago, we came up here and testified on Public Law 94–142. I want to compliment you for your leadership in this particular area. Many of us had questions about how we were going to implement this legislation.

In Illinois, we have come into conformity with Public Law 94–142. I am chairing a subcommittee of our Illinois School Problems Commission, to do exactly what you referred to, and that is, to see if the goals that we envisioned by the passage of Public Law 94–142 are, in fact, being accomplished in the field and in the carrying out of the legislative mandate.

I have submitted copies of my formal testimony, for the record, Mr. Chairman. What I would like to do, because I know that you have a full agenda, is to summarize the content of the formal testimony, and touch on a few of the highlights which I would like to call to your attention.

Mr. SIMON. Your full statement will be entered in the record.

[The prepared testimony of Mr. Berman follows:]

TESTIMONY
OF
ARTHUR L. BERMAN
ILLINOIS STATE SENATOR

Thank you for giving me the opportunity to address your subcommittees regarding the appropriations to assist state and local education agencies in their efforts to comply with the mandates of PL 94-142 and PL 89-313. These hearings demonstrate your continued interest in the goals of PL 94-142 and in the needs of handicapped children.

Congress's commitment to the needs of handicapped children has been demonstrated in very real terms by the financial support provided under PL 94-142. Appropriations approved by Congress will have provided approximately $96.4 million to Illinois to expand and improve the special education services for handicapped children in the first three years of the 94-142 implementation. This assistance has been an essential element of our commitment to the goals of PL 94-142: to assure that a free appropriate education is available to all handicapped children.

Illinois has also responded to this mandate through a substantial allocation of state resources for special education. In addition to the federal support provided for special education under PL 94-142, state expenditures for special education catagorical grants to local school districts have increased from $117 million in fiscal year 1976 to $184.2 million in fiscal year 1979. This is state money only and represents a 57.4% increase over three years. As a result, catigorical

grants for special education now account for almost 10% of all state expenditures for elementary and secondary education. These appropriations are in addition to the general state and local tax revenues which also support special education programs.

For school year 1979-1980, the Illinois State Board of Education has requested an additional $37.9 million, a 20.6% increase, to assist local school districts in their effort to comply with the mandates of PL 94-142. This request, however, represents almost half (48.2%) of the total increase recommended for elementary and secondary education in the Governor's 1979-1980 budget. Almost all of the balance of additional resources for elementary and secondary education will be required just to meet the payout requirements of the teachers retirement systems ($27.5 million) and the expansion of bilingual education programs to conform to the principals of the U.S. Supreme Court decision in Lou vs. Nichols. ($7.1 million). This of course, leaves virtually no additional funds for the basic educational programs provided by our local school districts.

Like the Congress, the Illinois General Assembly is faced with increased pressure to limit or reduce state and local taxes and expenditures. Therefore, I appreciate the circumstances under which I come to you to ask for your help. However, the current budget recommendations create serious problems for state and local agencies in their effort to comply with the mandates of PL 94-142.

As you know, the Education for All Handicapped Children Act authorized state grants to assist state and local education agencies in their

efforts to provide a free appropriate public education to all handicapped children. Each state's grant authorization is equal to the number of handicapped children age 3 through 21 receiving special education services in the state multiplied by 5% of the national average per pupil expenditure in fiscal year 1978; 10% in fiscal year 1979; 20% in fiscal year 1980; 30% in fiscal year 1981 and 40% in fiscal year 1982.

In the first two fiscal years appropriations were sufficient to provide grants equal to the full authorization. In fiscal year 1979, however, the level of support was equal to only 12% of the national average per pupil expenditure rather than the 20% authorized. The fiscal year 1980 appropriation recommendation of $862 million, a similar 12% expenditure, for distribution in the 1980-1981 school year will result in a further erosion of the federal commitment under PL 94-142.

It has been suggested that the level of funding for state grants be increased from the present 12% to 20% of the average per pupil attendance. Based on current budget projections, that would provide $85.8 million in federal assistance to Illinois - an increase of $34.4 million over current budget recommendations. While such an increase would require a substantial commitment of federal funds over the current budget recommendation ($575 million) it would still be well below the 30% level authorized by Congress in PL 94-142. Funding at 20% would increase the federal grant per child from $211 to approximately $364.

It has been projected that the fiscal year 1980 budget recommendations of $862 million for state grants will increase the federal grant

per child from $211 in fiscal year 1980 to $218 in fiscal year 1981, if funding is limited to 12%. This would provide an increase of only 3.3%. Thus, in "after-inflation dollars" federal assistance to state and local education agencies would actually decrease.

The increase to 20% is essential if we are to meet our obligations to assure that a free appropriate public education is available to all handicapped children. In the next several months local school districts will be making decisions which will effect special education services to handicapped children. These local decisions will be based in a large part on their expectations of federal support under PL 94-142. I believe that their confidence has already been eroded by the decision last year to fund the grant program at 12% rather than the 20% authorized.

A second year of 12% funding, in total disregard of a 30% authorization and no higher appropriation level than last year will be a clear signal to state and local education agencies that the "partnership" envisioned by 94-142 has been dissolved. The local agencies, in making plans for their budgets and programs will feel justified in cutting back on special education programs. The critics who have said that the handicapped students were being helped to the detriment of non-handicapped students will be reinforced in their opposition.

Congress and the states made a commitment to the goal of educating handicapped children by the passage and adoption of 94-142. Congress must not now make these empty promises by failing to support substantial

levels of appropriation, at least to the 20% level.

Also related to the issue of 94-142 funding is the suggested decrease of Pre-school Incentive Grants under Part B, Section 619. The suggested cut is from last year's expenditure of $17.5 million to $15 million; $2 1/2 million. The services funded by these grants are considered by many professionals as the most critical. They treat the handicapped child early, between ages 3 and 5, and can save many times that amount of money needed to cure a further-developed handicap. I believe such a cut would be very short sighted, and eventually, very wasteful.

On a different but related subject I would now like to address the two proposals regarding PL 89-313. First is the elimination of the "off the top" funding, and the second is the elimination of the full funding of the programs.

89-313 funds, as you know, are designated to serve the most severely disabled child, who, by the nature and degree of his handicapping condition, requires an intensive level of service. These children are unable to participate in regular education or in regular special education under PL 94-142, but who, none-the-less, must be served. What's more, under Section 504 of the Civil Rights Rehabilitation Act must be served in an appropriate fashion regardless of the degree of their disability, and regardless of funding sources.

89-313 dollars come to the State because this population of children are served in state operated and supported programs. In

Illinois, code agencies such as our Department of Children and Family Services and the Department of Mental Health serve these children, as well as the Illinois Office of Education. 89-313 funds are separate and apart from PL 94-142 funds. They are generated by a separate count, and funded with separate dollars.

In fiscal year 1979, Illinois received $612 per child counted through Title I 89-313 funds for a total of $12,473,000 for 20,382 children identified as having unique special education and related service needs.

Projected dollars for fiscal year 1980 at $677 per child, for 26,302 children would bring our State $16,096,000. If these funds are frozen, and the full funding requirement is lifted, we would experience a loss of $1.8 million. (SEE CHART BELOW)

TITLE I (89-313)

Fiscal Year	$ Per Pupil	# of Children	Total
1979	$612	20,382	$12,473,000
1980 (Authorized)	$677	26,302	$17,810,000
1980 (Frozen)	$612	26,302	$16,096,000
LOSS OF:			$ 1.8 million

State operated and supported programs for this population are supplemental through Title One funds. Most states, like Illinois, have several state agencies providing programs for the severely handicapped, and a reduction of these funds can easily become yet another reason to allow a "buck-passing" approach by agencies in addressing the needs of the handicapped.

If 89-313 appropriations are frozen at fiscal year 1979 levels, the impact on the State of Illinois and its 1,000 school districts will become a major issue. Reduced dollars usually mean reduced services, but under 504, the services cannot be reduced, and in many instances, must be increased.

Because of these mandated services, if funds are reduced, increased local and state dollars would be necessary to maintain services at the fiscal year 1979 level. The combination of reduced or frozen funding plus inflationary factors and the prevailing mood of Proposition 13 could easily spell disaster for a population of children who are least able to survive.

Illinois is not sitting on a substantial surplus. We have appropriated funds in keeping with our responsibilities, and we rely heavily on Congress continuing to meet its share of these responsibilities.

In closing, I respectfully urge that 94-142 be funded at the 20% level, funding Pre-school Incentive Grants at last year's level of $17,500,000, and that 89-313 funding be maintained at the "off-the-top" and full funding basis.

ARTHUR L. BERMAN
STATE SENATOR - ILLINOIS

Mr. BERMAN. Illinois has responded to the Federal call for providing an adequate and appropriate free education to handicapped children by the passage of conformity legislation last year. We have, further, made substantial commitments to the goals of Public Law 94–142 by substantial increases in the funding of our special education categorical grants.

In 1976, Illinois appropriated $117 million for the categorical grant for special education. In 1979, we appropriated $184 million, which is an increase of 58 percent over 3 years. Special education now represents over 10 percent of all Illinois expenditures for elementary and secondary education.

Next year, in conformity with the commitments that we have undertaken under Public Law 94–142, our State board of education has recommended an additional $37.9 million, or an increase of 21 percent, in the special education funding.

The State board's recommendations, of course, are substantially higher than the Governor's recommendation for levels of school funding, but I would point out that if we comply with the Governor's bottom-line in Illinois for education funding, 48 percent of all the new money that would be appropriated in Illinois this coming year would, in fact, go to the funding for special education.

We, in Illinois, are concerned about the recommended level of 12 percent for the funding of Public Law 94–142. If that amount is not changed upward, there would be an increase of only 3.3 percent in the funding per child for special education. That is a step backward, especially when we see the cost of inflation, and the 3.3 percent is not even keeping up with the cost of inflation.

I think, even more importantly, is how the States view Congress' commitment to the admirable goals of Public Law 94–142. Two years ago, we testified in front of Congressman Brademas' committee, in front of Senator Randolph's committee in the Senate, and we expressed the concern as to the future financial commitment of Congress.

Illinois and the other States were not fearful of a partnership relationship as long as we kept to our commitments regarding the partnership. The authorization levels of Public Law 94–142 were 5 percent, 10 percent, 20 percent, 30 percent, and 40 percent to be phased over 5 years. Last year, Congress saw fit to limit the 20 percent level to a 12 percent funding level. That, apparently, is the recommendation from the President for this year.

This causes us in the States great concern. I think that cutting the 30 percent down to 12 percent, in other words not increasing the percentage of funding for next year from what it was last year, would be a breach of the commitment that Congress made in the passage of Public Law 94–142.

Mr. BRADEMAS. Would you allow me to interrupt, Mr. Chairman, because I have to go greet Mr. Sadat.

If I could just make an observation, Senator, if you will allow me. I am very sympathetic to the thrust of your statement that you want to see more money put into this program. I am somewhat puzzled, however, that you talk about a commitment of Congress, because you know as well as I do that around this place an authorization bill is not a commitment of appropriated dollars. It is a hunting license to go out and look for the money.

You are also aware, I am sure, that a lot of State legislatures, not I understand yours, have been passing constitutional convention mandates for a balanced budget, which in my view would completely kill this legislation and many other programs like it.

I also must say that I have heard from a number of State leaders complaints along the lines of yours, saying: "The Federal Government really ought to come in with this extra money." But I would remind you that the Federal law—I think that we had this colloquy when you last appeared—was in response to mandates that were articulated by State courts, and in some cases by State legislative bodies, calling for the education of handicapped children as a constitutional right. In most of the States, there are State constitutional, or statutory mandates for the education of handicapped children.

So it is not really fair to suggest—I am not sure that this is what you have suggested, but I have heard State leaders suggest this—that the Federal Government has somehow imposed a new mandate upon the States. The States have had these mandates themselves. We have come along with additional funds to help you, at the State level, carry out mandates that you have imposed on yourselves.

I only make that observation because I, myself, get a little testy when I hear complaints of "Where is all this Federal money coming from?" I turn around, and I say: "Where is the State money. You are the fellows who decided that you wanted to make this a State constitutional right." Though you want to make sure that this is funded as much as possible, other champions of other programs here are making the same sort of plea.

Now, if you could get a little sense of responsibility structured into some of the State legislatures that keep writing these mandates for constitutional conventions, I think you might get a little more sympathy.

We are on the same side of the argument. We both want more money for the education of handicapped children, Senator, as you know, and nobody will be more vigorous than I in supporting it. But I just felt that I had to get this off my chest.

Thank you, Mr. Chairman.

Mr. SIMON. Mr. Berman.

Mr. BERMAN. Let me point out that Congressman Brademas' comments are the kind of response that I give to the people sitting on this side of the table in Springfield.

[Laughter.]

Mr. BERMAN. However, Illinois, in the figures that I have quoted, has met a call to putting larger commitments behind the education of the handicapped. Public Law 94–142, in relation to Illinois, and I think it is fair to say in relation to most of the large States, California, Michigan, Massachusetts, we had substantially the same kind of guidelines on board. But with the passage of Public Law 94–142, there have been dramatically little but expensive procedures that have had to be added. We are looking for help from Washington to meet: the expansion of the due process procedures; the problem with third party pay orders that are confronting the States because of the free concept, that is a substantial dollar impact.

In Illinois, as a result of both the State and Federal mandate, we have increased in the past 2 years from 229,000 to 243,000 children that

we serve in the regular school population. As far as the private placement of children, we have increased that, dollar-wise, by an increase of $11 million, from $7 million to $18 million.

The cost of private-school children being taught in the public schools pursuant to Public Law 94–142: From 1976–77, it was $12 million; and now in 1978–79, it is $20 million. It is an increase of $8 million.

We are meeting those expenses, but we need Congress to continue with the understand—I was going to use the word "commitment," but I will say with the understanding that I think was part of the package of Public Law 94–142, and it is necessary in order to deliver a message right now to the local school boards throughout the country, and in Illinois in particular. They are planning their program for the next year, and later. If Congress cuts back, and regardless of what we phrase it, if we don't go forward, if we stay at the same 12-percent level that we were last year, that is not forward movement. That is going to be a signal to local school districts that a mandate has been passed, but that the money is not going to be flowing in accordance with the partnership concept.

They are going to cut back on those programs at the local school district levels, because they are in that squeeze just as the State legislatures, and just as Congress is. But I think that if we are going to live up to the goals of Public Law 94–142, it is important for Congress to deliver a message. Sure, we cannot do as much as we had hoped to. We cannot reach the 30-percent level. But we are not going to stand at the same level as last year of 12 percent.

Therefore, I come today and respectfully urge that a funding level of 20 percent of the formula be, in fact, recommended for funding.

On a second topic, one that has not received as much publicity but which I think is very important, is the preschool incentive grants. There is a recommendation for a cut from last year's appropriation of those preschool incentive grants from $17.5 million to $15 million.

The services rendered for children in the ages of 3 to 5, I think, are some of the best investment dollars that we can make. When you treat a handicapped child early on, you save many times those dollars later. We are not talking big dollars. We are talking about a recommended cut from $17.5 million back to $15 million. Again, I think that this would be money saved, but not wisely saved. I think that it would be very shortsighted if we, in fact, cut back on that kind of funding.

The ages of 3 to 5, the services, if properly applied, can start a child on a program that will overcome his handicaps and allow him to reach his full potential in his later years.

Third is the issue of the Public Law 89–313; that is, funding for the most severely handicapped children, title I. Again, there has been a recommendation that the historical approach to this funding of full funding off the top of title I appropriations be discontinued.

This treats the category of children which are most severely handicapped, very, very severely handicapped children. It is a problem that many of us see throughout the bureaucracies as far as interagency problems are concerned. If you change that funding formula, if you don't provide off-the-top full funding for Public Law 89–313 funding, you are going to exacerbate the interagency competition, and regrettably find, I am afraid, that agencies that have the responsibility for

taking care of these severely handicapped children are going to increase the shifting of the buck, taking a walk on their responsibilities concerning these children.

There are no State dollars, at least as far as Illinois is concerned, to supplant or to take the place of these kinds of moneys. If we don't take it off the top, and if we don't fully fund it, those moneys are just not gong to be there at all. It will be a very serious blow to the category of children who are the most severely handicapped, and the least able to afford any cut in the program.

Therefore, Mr. Chairman and members of the committee, in conclusion, I respectfully urge funding at the 20-percent level of Public Law 94–142, the maintenance of the preschool incentive grants at $17.5 million, and the preservation of the funding formula for Public Law 89–313.

Mr. Chairman, I would be happy to try to respond to any questions.

Mr. SIMON. Thank you very much, Senator.

One of the fundamental questions that is asked in the Budget Committee, where I also happen to serve, is, if we move from 12 percent to 20 percent, are we, in fact, helping handicapped people, or are we helping State governments with some flexibility to do other things.

How would you respond to that?

Mr. BERMAN. Speaking from my experience, and again only as it applies to Illinois, there is no doubt in my mind that the programs that we have instituted in the past year or two under Public Law 94–142 are helping children.

The mandate of Public Law 94–142 has caused two things: No. 1, it has caused a flow of Federal dollars; but, No. 2, it has required a substantial increase in State dollars. Those combinations are important to maintain in order to deliver the services to these children.

We are having children treated today that have never been treated before. We have found children that need special education services that were never found before. We have to train teachers who have no experience in special education, who are now getting experience in treating handicapped children in mainstream situations. All of these have been outgrowths of the very commendable goals of Public Law 94–142.

If Federal dollars are not maintained in a progression as indicated when the bill was originally passed—and I understand the technicalities of an authorization, but people in the field don't read it that way—when you don't move forward, you, in fact, move backward with any type of social service program.

We get that same kind of flak as you are getting with these kinds of situations. We get it at the State level. We have to move forward. We are treating more children. We are training more special education personnel. We are placing more children in both public and private facilities. That costs money, and we need your help.

You are not picking up the whole tab. We are not picking up the whole tab. It is a partnership, and we want this partnership to continue and to grow.

Mr. SIMON. One of the realities is that the numbers that are being found eligible for assistance are appreciably lower than originally estimated. I frankly don't recall whether that is true for Illinois or not.

I did note the other day in reading some material that there are about 16,000 to 18,000 students in the city of Chicago who are waiting for diagnostic services. Obviously, there could be a real relationship between those two.

Do you have any comments there, and does that relate to this whole fiscal picture?

Mr. BERMAN. I think that many school districts, and especially the large ones—I live in Chicago, and my children attend the Chicago public schools. That is a major concern of mine as far as being a legislator from Chicago. There are thousands of children in Chicago, and I am sure that this applies, regrettably so, but my guess is for every large city. Children who need evaluation and placement in special education programs, are not being provided that service.

The numbers are overwhelming. We have to have in Chicago, substantial increases in the number of psychologists, for example, to evaluate these children, and special education personnel. This can only be done, again, with a continued flow of money.

I don't think that Illinois, for example, is serving a higher percentage of its population in special education than is the national average. We are, I think, at 7.7, and the national average is about 6.6. So we have gone out. We are finding these children and we are treating them.

We have no problem as far as the demand for services. Those kids are there, and they are waiting for services. It has been brought to my attention that the pupil count is not what was expected, but that is not the case in Illinois.

Mr. SIMON. Mr. Beard.

Mr. BEARD. Thank you, Mr. Chairman.

I think that what John Brademas stated is a feeling of a lot of Members of Congress. Politically, it is easy for someone back home, to start at the city level and blame the State. State blames the Congress. The Congress has got no one else to blame. So it just dies at that point.

I think what is happening is that there is a mentality out there of general assemblies constantly saying that the Congress should balance the budget. The Congress should cut back on spending. Yet, as an example, you are one of the general assembly that comes forward asking for an increase in a particular portion of the total budget, along with others from my own State, from California, and anywhere else in the United States.

I think that it is causing a problem because it is a credibility gap. You cannot ask for us to cut back on spending, and still ask us to spend more. It just does not work that way. I think that it hurts the causes, such as the very cause that you are here supporting today, and other causes.

You know, sooner or later, the Congress will say: "Fine, we will go for cuts in spending." But where do you start. This group will say: "Don't cut here, but let us cut over here." Then you go to the elderly. You cannot cut the elderly programs, cut the educational programs. There is a vicious circle.

The best thing that I can say to you, to take back to your general assembly, is what I told the Governor of my State and the members of the general assembly: More or less, take care of your own operations

in the State of Illinois. Let the Congress take care of the congressional spending here.

One thing, when we deal with the people, we are not so general. But to have a politician tell us, because it is convenient, and it is good publicity back home, that the Congress is doing all the spending. Then to have those politicians come up here and tell us that we have to expand the budget on this given program, or any other program, it is a tough one.

So, I would just tell them, more or less, to mind their own business, and let us take care of our work here. We understand what the story is, and what is needed in these areas. It just makes it more difficult for us to vote for any additional appropriations, and the end result is that it just makes it more difficult for the people that we are trying to serve.

Mr. BERMAN. Mr. Beard, let me respond by saying that Illinois has not passed a resolution for a balanced budget. I cannot take responsibility for other States, and I am not sure that I can take responsibility for Illinois as a whole. I try to represent the 11th District.

What we are saying is exactly what you are saying. We would like to have taken care of our own business. I was here 2 years ago suggesting that we be allowed to take care of our own business. But Congress, laudably, saw fit not to allow us to take care of our own business. You passed Public Law 94–142 that imposed additional responsibilities. Those are costing us money.

You also passed an authorization, which was inadequate. But I recognize the politics of social service programs, and if you authorized the kind of money that it would have cost, you would never have passed the bill. So I understand that. I think that it is a reasonable, justifiable compromise. But you had certain levels of authorizations.

Those mandates, those are not State mandates that are in Public Law 94–142. Illinois was moving along quite well without them. We are doing better with them, and so are the children, but that is costing us more money. That is why I am here today.

I understand your position. Your problem is the same as my problem. Eighty percent of our constituents in Illinois voted for an advisory proposition on the November ballot calling for a tax limitation. On the stomping campaign, I am confronted by those same taxpayers who want me to cut State spending. Then I have got the long list of the organizations that represent good causes.

I sympathize with you. I understand your problem. Your problem is my problem. We both run for election. We are both elected by constituents who want it both ways. God bless them, I don't want them to change. It is part of our responsibility to find out how we can keep them happy, and still live up to our responsibility of delivering those services.

Mr. BEARD. It is a good point that you are making, but what I am saying is—not necessarily your State. I think John Brademas has said, we have a cross section of politicians grandstanding back home at our expense, blaming the Federal Government for all the problems in spending.

On the other hand, half of them are a bunch of hypocrites, because they write to us asking us to increase every program under the Sun. That is all I am saying.

Mr. BERMAN. You are right, and we get the same thing at the State level.

Mr. BEARD. Of course, you are going to get it from the city, and the city gets it from the council. Then, the council has nowhere else to go.

Mr. BERMAN. It is part of the ball game. You love it, and so do I, and it will always go on. [Laughter.]

Mr. SIMON. I am going to interrupt this dialog.

I am going to be fairly strict on the 5-minute rule today because we have a series of witnesses.

Mr. Miller?

Mr. MILLER. Thank you, Mr. Chairman.

I come from a State where they did pass Proposition 13. I appreciate your testimony. I think that you are very straightforward with us.

An authorization also builds expectations, and States take action based on the fact that they believe that there is going to be a complementary act at the Federal level, after the Federal Government speaks in legislation. Then, after you take your action, we don't do what we said we were going to do.

It is an in-house game, or rule, that you authorize whatever you can get away with. There are a lot of people a long way from Washington who have expectations based upon that. Maybe what we ought to do is to tell the truth, and authorize a little tiny bit of money, and then people would be satisfied. Now, we just do enough to keep everybody quiet, but not solve the problem. I think that your testimony is right to the point.

The question is, are you going to sit around, and are you going to let the Appropriations Committee cut back, is the executive branch going to cut back, now that they have had all the platitudes and laurels for signing the legislation. That is really the point of your testimony.

You cannot cut back, as I understand your legislation. You can't do very well in terms of cutting back, but we can. It is either a partnership or it is not. I appreciate your remarks, Senator.

I do have a Governor who runs around saying that you have to balance the Federal budget because you are robbing from the future. Well, you made the point that I think a lot of the people in this room would make, and that is, this is an investment in the future.

Do you want to rob from somebody's future, then don't take care of their children. Don't take care of this handicapped child, and find out what his future will be. You can rob from him, and you can rob from him so easily, it is pathetic. I think that it is a mistake.

I hope that we are successful in meeting your plea, because if the administration is going to make this kind of cutback in this kind of program, and the Appropriations Committee is going to follow it, I think that it would be a very, very bad mistake.

This has nothing to do with politicians carping on one another about who started inflation, or unemployment, or what-have-you, because most of the people served by this legislation are not aware of it, and could not much give a damn. Their needs are a long way outside of the Consumer Price Index.

I appreciate your coming here with what I think is a very frank statement about what happened to the States as a result of our pulling back a little bit.

Mr. BERMAN. Thank you.

Mr. SIMON. Mr. Kramer.

Mr. KRAMER. Thank you, Mr. Chairman.

I did not have the benefit, Senator, of your earlier comments. You may not be the appropriate person to ask this question.

To what extent do you personally believe in what we talk about as the mainstreaming concept? To what extent do you believe that this is a valuable concept? Do you think that it is being overdone today in light of this legislation, and that we are going beyond what might be determined a commonsense approach and into a situation in which the cost/benefit return is not sufficient to direct our energies in the way that we are directing them now?

Mr. BERMAN. Congressman, let me respond this way.

I have told people that have inquired as to their options in the treatment of their children since the inception of Public Law 94–142. I have said to them that their options are the same as they were before Public Law 94–142, but with one very important plus. If I want to take my child, who would be handicapped, and place him in a program, and pay for it, I have got that option. I don't have to listen to any public school administrator in doing that.

That was the way it existed before Public Law 94–142. Since Public Law 94–142, I can not only do that, but if I don't want to pay for that child's education, I have got to go through some redtape, an evaluation by a school administrator, a recommendation for placement. If I agree with the placement, then I have gotten a great benefit from Public Law 94–142.

By the way, the word "mainstreaming" is not even in the legislation. But there is an incentive for a much broader public school program and the definition of "least restrictive alternative."

I think that the public has gotten a trade-off, which has always existed. If I want somebody else, if I want the government to pick up the cost, I have got to listen, or fight with and reconcile my wishes with those of the government agency that is picking up the tab.

I am not upset with Public Law 94–142. I think that there is some shift to public as opposed to the nonpublic facilities. But I think that the due process procedures have been substantially broadened, and if a parent is willing to fight, I believe that he can get the proper, appropriate and adequate program custom made for his child. He has to be willing to fight, and it is a hassle.

I am a strong advocate of Public Law 94–142. I think that it has done an excellent job. Once we get the kinks out of it, and with the proper funding, I think that it will be a great delivery system for adequate education for handicapped children.

Mr. KRAMER. If I understand what you are saying—and this is coming from a person who is really not familiar with this area, but who in the State legislature happened to see some of the things come by—you don't think that the mainstreaming concept has been overdone as enunciated in this bill?

Mr. BERMAN. I don't think so.

Again, if I don't want my child to undergo the program that is being suggested for nothing by the public school evaluators, I can do the same thing I did before. I can place him in the school that I am happiest with, and I pick up the tab. Those are your options.

Mr. KRAMER. Nothing further.

Mr. SIMON. Thank you very much for excellent testimony. We appreciate it. In a sense, you are here for the State of Illinois, but in a greater sense, you are here for a great many people who need a voice, and we appreciate it.

Mr. BERMAN. Thank you for having me here, and giving me this opportunity to testify.

Mr. SIMON. Our next witness is Mr. Frederick Weintraub, who will be accompanied by Dr. Robert Gibson, and Ms. Bambi Levine.

STATEMENT OF FREDERICK WEINTRAUB, ASSISTANT EXECUTIVE DIRECTOR FOR GOVERNMENT RELATIONS OF THE COUNCIL FOR EXCEPTIONAL CHILDREN

Mr. WEINTRAUB. I am Frederick Weintraub, Assistant Executive Director for Governmental Relations of the Council for Exceptional Children, which is a national organization of people involved in, and concerned about the education of handicapped, and gifted and talented children.

Accompanying me today is Dr. Robert Gibson, who is director of special education for the Heartland Area Education Agency in Ankeny, Iowa; and Ms. Bambi Levine, who is the assistant director for special education for the State of Massachusetts.

These two individuals are people who have lived with the implementation of Public Law 94–142, and will have, after my general comments, which I will keep short, some brief specific comments, and then certainly will be available for questions.

Mr. SIMON. Your statement will be entered in the record, and you may proceed as you wish.

Mr. WEINTRAUB. I would appreciate that.

[The prepared statement of Mr. Weintraub follows:]

STATEMENT OF

THE COUNCIL FOR EXCEPTIONAL CHILDREN

to

THE ELEMENTARY, SECONDARY AND VOCATION SUBCOMMITTEE

THE SELECT EDUCATION SUBCOMMITTEE

of

THE HOUSE EDUCATION AND LABOR COMMITTEE

with respect to

THE EDUCATION OF HANDICAPPED CHILDREN

March 27, 1979

Presented by:
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We thank you for the opportunity to appear before this distinguished panel of the 96th Congress to offer the views of The Council for Exceptional Children with respect to the fiscal aspects of P.L. 94-142, the Education for All Handicapped Children Act. May we also take this opportunity to express to you the continuing admiration and warm appreciation of the membership of the Council for your unrelenting efforts on behalf of America's exceptional children.

As you know, The Council for Exceptional Children is a national organization with a membership of approximately 70,000 professionals in the field of special education. One of the most fundamental ongoing missions of the Council, which has brought us to Capitol Hill on so many occasions through the years, is to seek continual improvement of Federal provisions for the education of America's exceptional children and youth, both handicapped and gifted.

The Fiscal Promise

We find ourselves now nearly three and one half years beyond enactment of the landmark Public Law 94-142, that most significant Federal affirmation, in concert with corresponding State legislative mandates and court decrees, of the right to a free, appropriate public education for all of this Nation's handicapped children. Furthermore, we are now in the critical months of Federal, State and local implementation of major substantive provisions of this Act.

Because this law addresses the real instructional needs of children rather than systems-oriented factors, the Act certainly has generated its fair share of detractors. But we would contend that the number of such detractors are far outweighted by the number of both organizations and individuals in this

country who are staunch supporters of both the mission and the consequent mechanisms of P.L. 94-142.

It may be worth noting that, when the issue becomes that of exactly which professionals will actually be on the front line with the difficult but challenging task of implementing this law, our members of The Council for Exceptional Children certainly stand in the forefront of that group. But while our members have "their feet to the fire" to fulfill the mission of P.L. 94-142, I am here today on their behalf to reiterate their continuing support for that law.

It is not our purpose today to discuss again, "Why P.L. 94-142?" "Why the specific component parts of P.L. 94-142?" Literally a dozen volumes of Senate and House hearing testimony coupled with the larger legislative history accumulated over four long years of careful Congressional development of this Act provide thorough and complete answers to those questions. Rather it is our purpose today to discuss the critical fiscal promise that accompanied the educational rights guarantees of P.L. 94-142.

In the first two years under the law, the federal government clearly lived up to that fiscal promise. However, we are now deeply concerned that this escalating commitment as originally agreed to in P.L. 94-142 may be sidetracked in midstream.

Very briefly, the figure of $804 million for the coming school year, recommended by the Administration and duly appropriated by the Congress, is already well below the authority for that year of $1.2 billion. The Congress is now about to commence consideration of appropriations under this vital federal support program for fiscal year 1981. The authority for that year is approximately $2.103 billion. Despite the fiscal possibilities and

and consequent expectations on the part of the nation's school systems, the Administration is recommending only $862 million in actual appropriations for fiscal year 1981. The Administration is clearly asking us to step off the escalator, and we hope that the Congress will refuse to go along.

Education Turnkey Systems, which has conducted a study of the implementation of P.L. 94-142--an implementation which is now in its second, and final, crucial phase during this school year--made the following pointed statement in its summary of preliminary findings:

> First, compared with recent education legislation, never have so many SEAs and LEAs initiated so many activities with relatively few federal resources to implement the provisions of a federal mandate. In all sites, some initiatives have been undertaken to implement the provisions as quickly as possible in spite of increased time burdens and scarce resources.

And herein lies the core of the issue: the school systems have worked during this school year and the last school year to fulfill the mandate of P.L. 94-142 before actually having received much of the larger fiscal appropriations also attendant to P.L. 94-142. Now that compliance is being achieved, those monies are flowing, and flowing rapidly. Nonetheless, the question is: does the Congress intend to honor its escalating fiscal commitment which does not stabilize until fiscal 1982? We do not believe that it would be an exaggeration to maintain that "The Nation is watching." We therefore believe that it is essential that the Congress appropriate a figure which constitutes a "good faith" acknowledge of that escalating fiscal promise.

Per-Child Allocations

It is apparently the ambition of the Department of Health, Education and Welfare to have received a child count of 4.1 million children for

fiscal year 1981 (school year 1980-81). If that does in fact occur, we will actually witness a reduction in the number of dollars per child under P.L. 94-142 if the Congress adheres to the President's budget request for fiscal 1981. At the existing appropriation level of $804 million for the coming school year (fiscal 1980), with an estimated child count of 3.7 million children, the approximate dollars per child will be $217. With the President's request for fiscal 1981 of $862 million, factoring in the HEW ambition of 4.1 million children counted, the approximate allotment per child will be $210. Moreover, even were the child count lower at that time (3.8 million or 3.9 million children) the increase under the President's proposal would be minimal.

Correspondingly, if the program were funded at $1.2 billion in fiscal 1981, the per child allotment would be $341 per child with the 4.1 million child count. If the program were fully funded at the $2.1 billion figure, with the 4.1 million child count, the per child allotment would be $512.

Consequences of "no growth"

Permit us to very briefly cite some of the potential consequences of the failure to maintain the fiscal promise of P.L. 94-142.

(1) In some quarters there may in fact be an inclination to "back-off" from the promise and mandate of this landmark legislation.

(2) What the Congress fails to allocate from the Federal revenue to fulfill the mission of educating our handicapped children may mean increased property and other local taxes.

(3) The quality of our children's education may be hampered through resorting to larger class loads.

(4) There may be an increasing inclination to freeze children into the referral process, i.e., delaying (perhaps indefinitely) assessment of

whether a handicapping condition exists, thus avoiding the potential need to provide a special education program.

(5) Preschool handicapped children will have no chance of a special education program at all (which we will discuss in more detail later).

(6) All of our children may suffer, handicapped and nonhandicapped, because there will be the strong temptation to juggle resources in the ancient tradition of "robbing Peter to pay Paul."

The Pipline Allegations

The assertion has been made that there is a considerable back up of appropriations under P.L. 94-142 in the so-called pipeline, i.e., monies as yet unobligated by the federal government to the states, or monies as yet not outlayed by the states to the local school districts. Such gross allegations are terribly misleading if the actual conditions are not analyzed. We offer the following:

(1) The first major appropriation under P.L. 94-142 was the approximately $254 million for fiscal 1978 (school year 1977-78). But it must always be born in mind that the required state plans in order to receive those funds were perhaps the most critical state plans from the standpoint of demonstrating compliance with P.L. 94-142 provisions. Thus, there were obvious delays in order to achieve state plan approval. That money is now obligated and outlayed.

(2) Of the fiscal 1979 appropriation of $565 million for the current school year, at least $370 million has already been obligated. Since the U.S. Office of Education is now at the peak of the 1979 state plan approval process, all obligations should be made at an accelerating pace.

(3) It must be borne in mind that under law respecting all education programs, the state education agencies actually have a 27 month period in

which to make their own outlays. Funds appropriated for a given fiscal year become available for obligation by the federal government on July One of the preceding fiscal year, which availability continues for 15 months. Then, under the terms of the Tydings Amendment, the states may outlay through the fiscal year following the fiscal year for which appropriations were made. The Congress deliberately made this decision to allow a greater outlay period in the interests of a better planned use of funds. The education of the handicapped program should not be singled out when administrators wish to take advantage of that opportunity.

(4) This spend-out rate situation is to be expected in a large new program like that authorized in P.L. 94-142. Title I of ESEA had similar spend-out characteristics in its first years, and Title I carried far fewer crucial eligibility requirements.

Summary of This Segment

It is the belief of the Council that the positive arguments for staying on target toward full funding of P.L. 94-142 remain compelling, including at least the following:

(1) to enable the Congress to fulfill its original fiscal promise respecting the education of handicapped children;

(2) to allow the federal government to fulfill its objective of participating as a meaningful fiscal partner with state and local education agencies in providing appropriate education services for these children;

(3) to acknowledge, and provide relief respecting the fiscal responsibility of State and local education agencies to provide not only special education, but necessary "related services" to a considerable population of our handicapped children:

(4) to offset in this period of fiscal retrenchment (including the phenomenon of "Propositon 13 fever" as witnessed by at least 12 states passing some form of tax relief in the last general election) the considerable cost of providing through cooperative agreements among public agencies the special education and related services required to meet the unique needs of each handicapped child; and

(5) to guarantee continuing good faith between the federal government and the state and local education agencies in relation to their respective responsibilities.

State Handicapped Program (P.L. 89-313)

The State handicapped program was created in 1966 by P.L. 89-313. Presently it serves approximately 224,000 children in over 6,900 centers or schools. It received $121.6 million in fiscal 1978 to meet its responsibilities through an automatic entitlement within Title I, ESEA.

As the program has grown, it has changed in character as well. In 1966, 97 percent of its children were in residential schools. In fiscal year 1978, 40 percent were in residential programs, 49 percent in State-supported day programs, and 8 percent in follow-along programs administered by local school systems.

During the last legislative session, the House Committee on Education and Labor held deliberations concerning the reauthorization of the 89-313 program. Although representatives of GAO reported on a variety of perceived problems with the program, the Committee, after considerable debate, proposed no amendments to the program. According to its Committee report, it perceived most of these problems to be "correctible administratively, and...now (was) not the time to try to re-shape this program when the closely-related general

program to educate handicapped children (P.L. 94-142) (was) just now being implemented."

The idea that P.L. 89-313 and P.L. 94-142 should be combined to develop a uniform program of services and funding for all handicapped children was also discussed. After a variety of concerns were raised, however, as to whether the actual level of appropriations for P.L. 94-142 would grow fast enough to successfully accommodate this merger, the amendment was dropped.

In the Administration's proposed FY 80 budget which was sent up to the Congress this past January, it was suggested that appropriations for the 89-313 program be capped. For many of the same reasons arrived at by the Committee during their deliberations concerning this program last year, CEC would recommend that this recommendation be rejected. Such a cap at this point in time would most definitely jeopardizes the provision of appropriate special educational services to those children, usually the most severely handicapped, with the greatest need. Such a move, particularly when FY 80 appropriations for P.L. 94-142 are considerably under the authorization level originally proposed by the Congress, and with the threat of an even greater disparity anticipated for FY 81, is, at best unconceivable

The Preschool Incentive Program

Every state and their localities, under the terms of P.L. 94-142, are required to make available special education and related services to handicapped children aged three to eighteen by September 1, 1978, and three to twenty-one by September 1, 1980. However, this mandate does not apply for children in the three to five and eighteen to twenty-one age ranges if the requirement is inconsistent with state policies. The original versions of P.L. 94-142 were amended to allow state option for the 3-5 year population.

The decision was then made to "buy" what we will not "mandate" through inclusion in P.L. 94-142 of the preschool incentive grant program. The incentive grant component is aimed at encouraging the states to provide special education and related services to its preschool handicapped children. Each handicapped preschooler aged three to five who is counted as served was to generate a special $300 entitlement, to be used by state education agencies to further develop preschool programs for handicapped children. However, this figure has never been realized, in fact, only about one third of that amount is being received.

By removing the mandate and creating the incentive grant program in conjunction with a failure to appropriate the authorized level of funds for that program, we have created the worst of both worlds. States with permissive or no early childhood policies are not focusing on preschool handicapped children. We are seeing the momentum of the late 60's and early 70's in this area come to a grinding halt. Fewer states are lowering their service ages to 3 or 4, and fewer still are appropriating necessary funds.

It is conservatively estimated that there are one million handicapped children of preschool age (0-5). Approximately 350,000 are receiving some form of early childhood educational services from either public and/or private sources. This leaves approximately 65 percent of the preschool handicapped children without needed services.

Educational Programs for the preschool handicapped child are mandated in only about eleven states. Where there were voluntary programs, funds are running thin and programs are folding. It is absolutely essential to reinstate the original Congressional commitment to the very young handicapped child and to his future which would be greatly enhanced by preschool experiences. We must supply the fiscal resources necessary to maintain the momentum that was obtained by a long and hard battle.

The available data regarding the impact of early intervention on handicapped children presents a strong case for special preschool considerations. Persons concerned about handicapped children have long concurred on the critical importance of early developmental programs for such children. The best evidence clearly demonstrates that with appropriate early intervention some handicapping conditions are reversible, some handicapping conditions are susceptible to a high degree of amelioration and, in some instances, the multiplying consequences of a disability can be sharply curtailed.

In a report entitled The Economics of Mental Retardation, Ronald Conley stated,

> A more stimulating environment (could enable) over half of the retarded to achieve I.Q. scores above the arbitrary cut off point (for mild retardation).

According to Conley, the economic loss due solely to lowered I.Q. attributed to environmental conditions may be quite significant. Secondly, early childhood specialist Betty Caldwell has concluded that:

> Differences on most cognitive variables can be demonstrated as a function of an early childhood spent in environments presumed to differ in the amount and quality of available stimulation.

In essence, the earlier a handicapped child obtains stimulating, developmentally appropriate experiences the greater his chance of participating in the larger society.

Final figures from the 57 state education jurisdictions indicate that the averaged count of handicapped children aged three through five for purposes of this entitlement will be at least 220,000 children. This count generates an authority of $66 million. We urge the Congress to reverse the disastrous course we are now set upon by fully-funding this incentive program.

A 1974 HEW-funded study by the Rand Corporation entitled, "Services for Handicapped Youth: A Program Overview," observes:

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For handicapped children, age 6 is past the optimal time to start the child in programs designed to reverse the disability.

The Support Components

In an effort to aid states in their provision of services to handicapped children, Congress developed a number of discretionary programs (EHA, Parts C through F). The objective of such programs is to supplement the basic state grant programs authorized under P.L. 94-142 by encouraging states, localities, and the profession generally, to initiate innovative techniques and practices in such areas as early intervention, personnel preparation, and research and development. These programs, in light of the comprehensiveness of the P.L. 94-142 mandate, have become a crucial factor in the ability of the states to comply. Only through such resources will states be able to train the necessary personnel, develop the skills, materials, and model programs that will eventually result in the delivery of appropriate special education and related services to handicapped children. We would like to focus on two of these support components.

Personnel Development (EHA, Part D)

Public Law 94-142 requires that every handicapped child receive the special education and related services that are necessary for that child to reach his full potential. This requirement presents the enormous administrative challenge of making available a wide array of services. A fundamental step in the provision of such services is the preparation of necessary personnel. In light of the least restrictive environment and related services provisions of the law, the personnel required to carry out the mandate far exceed the field of special education. In addition to the critical shortage of special education teachers, there is now a dire need for regular teachers with special

education skills, speech therapists, psychologists, school social workers, audiologists, occupational and physical therapists, and teacher aids just to name a few.

As part of their first P.L. 94-142 Annual Program Plan, states were asked to identify personnel available and needed. The states estimated that an additional 65,000 special education teachers would be needed for the 1978-79 school year and 85,000 for 1979-80. However, higher education institutions are presently producing only 20,000 new special educators a year. Other personnel needs include an additional 31,000 teacher aids, 5,000 psychologists, and 3,000 speech pathologists and audiologists.

In addition to these preservice needs, states identified the inservice training needs of their current personnel. The states anticipate providing special education inservice training to nearly 50,000 persons in school year 79-80.

It is important to observe the action taken by the 95th Congress, subsequent to enactment of P.L. 94-142 in the 94th Congress, in its five year extension (P.L. 95-41) of the support discretionary programs for the education of handicapped children (i.e., such components as research, regional resource centers, personnel development, model programs). The Congress, in P.L. 95-41, kept all authorizations at conservative levels with the exception of those for personnel development which were greatly increased, peaking at an authority for $95 million in fiscal 1982. The Congress was clearly acknowledging the urgent need for expanded federal resources in this area. For all of the preceding reasons, CEC is compelled to request the full authority of $85 million for fiscal year 1980.

Finally, the preservice training needs of American Indians wishing to provide special education and related services to American Indian handicapped

children is not solely the responsibility of the Bureau of Indian Affairs. With the inclusion of the children residing on reservations under the mandate of P.L. 94-142 the U.S. Office of Education was committed to this need. It follows, then, that special education training programs operated under the aegis of EHA, Part D, make special consideration of this population.

Research and Development

Part E of the Education of the Handicapped Act has authorized the Bureau of Education for the Handicapped (BEH) to conduct a modest program of research and development to improve the quality of education for handicapped individuals.

This program seeks to improve the effectiveness and efficiency of the educational system for handicapped children by supporting the development and validation of new service models and techniques; by packaging information into usable form; and by systematically assuring that this information is disseminated to appropriate consumers and interested parties. Activities are designed so that quality research and development products can be expeditiously integrated into the educational delivery system. Recent examples of such activities include:

- Major efforts in the development of curriculum and instructional materials for the mentally retarded.
- Development and testing of reading aids for the visually handicapped.
- Studies of language development and instruction for preschool and infant handicapped children.
- Increased attention to the educational problems of very severely emotionally disturbed children.

The Council for Exceptional Children, however, believes there is an even greater need for a more substantial research and development effort in this area on the part of the Federal Government. With the passage and implementation

of P.L. 94-142, CEC would envision that at least the following areas be explored if the U.S. Commissioner is to fulfill his supportive responsibilities under the law:

- implementation of individualized education programs for all handicapped children
- development and evaluation of management information systems
- definitional studies (such as in the area of specific learning disabilities)
- implementation of the "excess cost" constraint in P.L. 94-142 (especially from accounting standpoint)
- effective procedures for State-level and U.S. Commissioner validation of child counts under the entitlement formula
- educational referral and assessment standards and procedures
- alternative systems for the implementation of effective and efficient due process
- standards and procedures relating to child flow within least restrictive placement

In addition to the need for an expanded programmatic research effort, CEC also sees the necessity to improve upon our exceedingly fragile link-up with educational and medical technology. We are increasingly concerned that to date the still incredible pace of technological innovation and improvement has not been interfaced in any organized, consistent, and comprehensive manner to assist exceptional persons in meeting their everyday educational as well as individual needs.

For instance one might use the Kurzweil Reading Machine as an illustration of the importance and benefit of such applied technology in the education of handicapped individuals. This machine, invented by Raymond Kurzweil of Cambridge, Massachusetts and funded as a BEH-supported project, speaks the pages

of books, magazines, newspapers, typewritten letters, and similar materials at the synthesized human speech rate of 200 words per minute, spelling or repeating if the user desires.

This electronic breakthrough gives the visually impaired or blind almost unlimited access to all printed material. Easy to operate, the machine automatically starts speaking after the user places the paper with print face down on a glass plate, and presses a button. A major feature of Kurzweil's system is that it can distinguish a variety of type fonts, and actually "learn" new ones from a computer program.

In essence, this is the problem: too often we wait for a dedicated researcher or scientist to come knocking at the Federal door with a good idea. We must develop a permanent link-up with the scientific and technological community in order to at least reduce the number of what have certainly been too many lost opportunities for applied technology to the benefit of exceptional persons.

In essence, we would hope that the Congress would consider a modest increase in the appropriation for research (EHA, Part E), an appropriation which has been without increase for a number of years.

Conclusion

In closing, may we again thank you for the opportunity to appear. We stand ready to provide whatever assistance or information may be useful to you and other members of this panel during the course of the 96th Congress.

Note: Appendix items are drawn from USOE-BEH report to the Congress, submitted in January, 1979, respecting implementation of P.L. 94-142.

TABLE 2
Incentive Grants for Preschool Handicapped Children

State	Children Served (Ages 3-5)	Preschool Incentive Grant (FY 1978)
U.S.Total for All States and Territories	196,277	$12,500,000
U.S. Total for States Only	195,058	12,422,368
Alabama	443	28,213
Alaska	378	21,073
Arizona	774	47,382
Arkansas	446	28,404
California	24,370	1,552,016
Colorado	1,936	123,295
Connecticut	1,244	79,225
Delaware	474	30,187
Florida	5,274	335,877
Georgia	3,719	236,846
Hawaii	190	12,100
Idaho	658	41,905
Illinois	20,891	1,330,454
Indiana	1,214	77,314
Iowa	3,844	244,807
Kansas	2,575	163,990
Kentucky	1,470	93,618
Louisiana	4,759	303,079
Maine	678	43,179
Maryland	1,145	72,920
Massachusetts	4,750	302,506
Michigan	13,725	874,084
Minnesota	4,221	268,817
Mississippi	1,195	76,104
Missouri	5,846	372,305
Montana	449	28,595
Nebraska	2,493	158,768
Nevada	764	48,656
New Hampshire	289	18,405
New Jersey	4,755	302,825
New Mexico	666	42,415
New York	6,114	389,373
North Carolina	4,110	261,747
North Dakota	402	25,602
Ohio	4,069	259,136
Oklahoma	2,762	175,899
Oregon	2,280	145,203
Pennsylvania	11,007	700,986
Rhode Island	1,069	68,080
South Carolina	3,778	240,604
South Dakota	452	28,786
Tennessee	7,316	465,923
Texas	23,066	1,468,970
Utah	1,478	94,127
Vermont	535	34,072
Virginia	4,230	269,390
Washington	1,582	100,750
West Virginia	834	53,114
Wisconsin	4,032	256,780
Wyoming	337	21,462

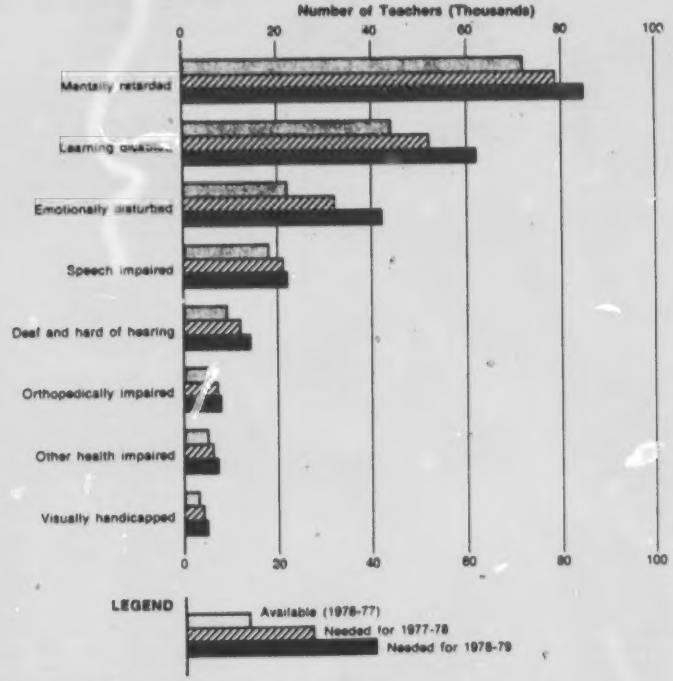
Incentive Grants for Preschool Children Total $12.5 Million

Because it is generally accepted that the earlier you identify and work with a handicapped child, the better the chances of ameliorating some of the effects of the handicap, the new law introduced a system of incentive grants to States serving handicapped children ages 3-5. Entitlements for these grants are calculated on the basis of $300 for each child. However, the $12.5 million appropriation for this program limited the amount available to the States to a proration of $64.69 for each child.

Allocations are shown in Table 2. California, Texas, and Illinois received the largest awards. Their grants account for more than one-third of the total appropriation. Nine states received grants of less than $30,000. Hawaii had the smallest award ($12,000).

See Appendix D, Table D-3.4

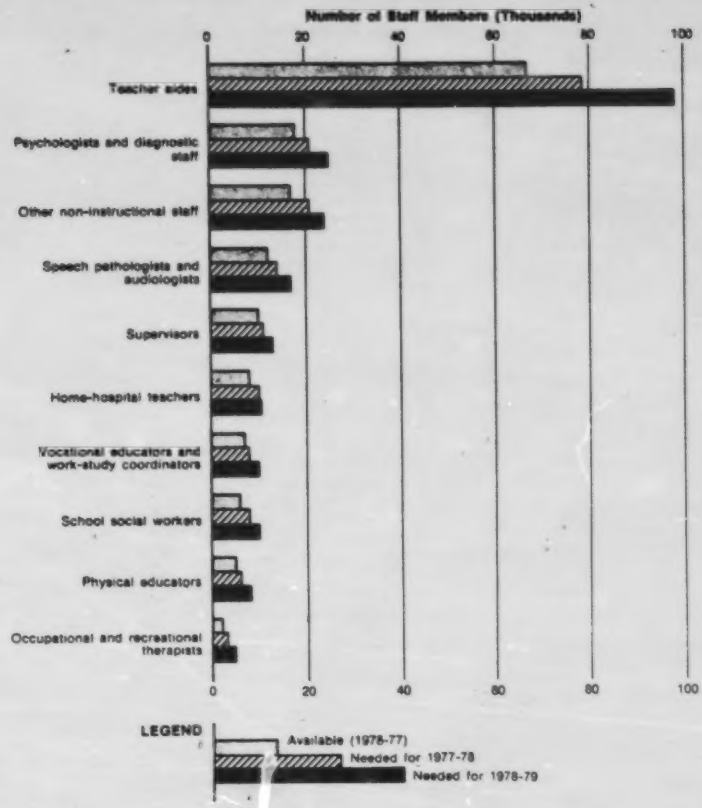
Figure 3.4 **Special Education Teachers Available and Needed by Type of Handicapping Condition of Child Served[1]**



[1]Some States combined categories. See Appendix D, Table D-3.4

See Appendix D, Table D-3.5

Figure 3.5 School Staff Other Than Special Education Teachers Available and Needed[1]



[1]Some States combined categories. See Appendix D, Table D-3.5.

TABLE D-3.4
Special Education Teachers' Available and Needed by Type of Handicapping Condition of Child Served, School Years 1976-77 to 1978-79

State	Mentally Retarded			Learning Disabled			Emotionally Disturbed		
	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79
Alabama	168	488	546	49	109	133	88	174	205
Alaska	45	0	0	21	42	66	10	24	57
Arizona	0	0	0	130	159	187	78	83	87
Arkansas	150	172	172	71	91	107	64	64	70
California	651	733	810	947	986	987	643	672	719
Colorado[2]	326	345	365	133	143	154	64	71	82
Connecticut	—	—	—	338	344	350	111	111	111
Delaware	52	52	52	40	33	66	29	31	64
District of Columbia	27	43	6	30	79	57	21	33	23
Florida	109	967	999	265	339	346	214	379	380
Georgia	480	502	630	327	390	325	109	115	134
Hawaii	—	2	10	52	56	60	15	15	16
Idaho	90	94	100	55	61	67	12	29	35
Illinois[2]	1,658	1,973	1,973	966	1,066	1,010	705	705	705
Indiana	683	1,068	1,068	216	1,616	1,616	53	82	82
Iowa	27	48	67	164	225	276	67	94	118
Kansas	—	—	—	96	109	141	17	33	54
Kentucky	372	386	394	123	161	211	33	40	56
Louisiana	—	—	—	148	157	246	83	148	208
Maine	1	—	—	39	102	67	8	10	12
Maryland	418	241	439	133	143	167	68	91	89
Massachusetts	1,905	2,198	2,253	219	234	239	240	279	289
Michigan	1,370	1,398	1,427	443	444	448	323	326	330
Minnesota	658	698	738	71	95	119	97	113	139
Mississippi	251	580	784	107	178	414	18	53	106
Missouri	654	661	667	150	216	253	61	80	99
Montana	198	238	287	16	19	22	13	15	17
Nebraska	—	—	—	66	66	66	42	44	46
Nevada	39	—	2	23	—	22	19	—	8
New Hampshire	161	182	201	40	45	52	121	137	151
New Jersey	1,251	1,083	1,086	196	210	211	86	98	99
New Mexico	—	—	—	—	—	—	—	—	—
New York	1,288	1,193	1,229	419	421	464	154	175	204
North Carolina	10	80	100	213	389	473	49	125	140
North Dakota	0	0	0	9	13	16	2	4	4
Ohio	—	—	—	381	396	471	200	216	268
Oklahoma	252	260	279	108	113	120	35	57	62
Oregon	189	218	220	49	59	62	27	30	30
Pennsylvania[2]	—	—	—	542	570	1,298	503	582	581
Puerto Rico	17	57	72	90	101	135	4	22	32
Rhode Island	0	0	0	15	0	0	16	16	16
South Carolina	486	585	611	184	198	204	67	69	91
South Dakota	1	1	1	32	36	36	11	11	11
Tennessee	580	780	780	230	290	289	81	70	105
Texas[2]	1,824	1,724	1,824	515	615	735	460	510	610
Utah	0	0	4	5	11	14	8	12	17
Vermont	0	0	0	33	37	37	5	7	7
Virginia	513	579	637	222	236	261	58	59	64
Washington[2]	—	—	—	127	130	133	36	37	38
West Virginia	207	247	345	56	59	101	63	37	74
Wisconsin	930	1,025	1,047	196	206	214	118	152	186
Wyoming	0	0	0	27	60	67	6	10	15
American Samoa	2	3	6	3	6	7	1	2	2
Guam	1	8	8	9	14	14	0	0	0
Trust Territories	7	15	25	12	21	27	3	5	7
Virgin Islands	4	6	8	6	8	10	2	4	6
Bur. of Indian Affairs	6	49	54	4	23	42	3	10	18
Total	18,390	20,944	22,254	8,787	11,791	13,786	5,341	6,377	7,314

TABLE D-3.4 (Continued)
Special Education Teachers Available and Needed by Type of Handicapping Condition of Child Served, School Years 1976-77 to 1978-79

State	Speech Impaired[a]			Deaf / Hard of Hearing			Orthopedically Impaired		
	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79
Alabama	2 475	3 675	3 132	314	393	437	78	429	508
Alaska	111	163	206	375	378	413	20	88	141
Arizona	1 606	1 877	1 133	1 050	1 175	1 236	440	467	491
Arkansas	813	823	863	338	411	438	27	42	61
California	3 310	3 258	3 395	4 933	5 321	5 940	2 364	2 911	2 832
Colorado[a]	660	824	833	1 269	1 293	1 294	367	443	491
Connecticut	1 187	1 443	1 699	1 237	1 583	1 797	858	1 014	1 134
Delaware	213	221	261	320	269	975	171	198	258
District of Columbia	375	397	736	132	458	431	167	213	297
Florida	3 761	3 991	5 765	1 508	1 654	1 857	835	1 260	1 371
Georgia	2 319	2 762	2 467	835	900	1 075	551	581	813
Hawaii	178	187	192	293	302	308	34	37	40
Idaho	203	276	288	372	397	412	48	56	63
Illinois[a]	4 104	4 913	4 913	2 863	3 254	3 254	2 572	2 709	2 709
Indiana	1 987	3 252	3 252	779	962	962	194	2 769	2 769
Iowa	1 234	1 430	1 901	1 028	1 203	1 710	251	438	1 254
Kansas	789	839	894	558	625	867	328	375	492
Kentucky	1 881	1 734	1 774	635	744	901	165	220	298
Louisiana	1 853	1 937	2 083	784	983	1 398	239	399	684
Maine	219	383	426	178	273	36	26	858	150
Maryland	1 349	1 392	1 431	1 711	1 890	1 981	271	372	391
Massachusetts	1 609	1 825	1 898	1 005	1 144	1 100	1 098	1 237	1 318
Michigan	3 382	3 314	3 285	1 758	1 981	2 013	1 355	1 440	1 530
Minnesota	1 679	1 730	1 705	1 905	1 940	1 978	290	290	330
Mississippi	1 395	1 331	1 857	273	370	758	6	226	918
Missouri	1 923	2 064	2 131	1 294	2 184	2 471	491	588	687
Montana	248	285	331	442	513	585	49	57	66
Nebraska	728	748	768	227	247	267	126	136	146
Nevada	139	–	95	254	–	91	23	–	19
New Hampshire	191	202	229	181	202	229	172	183	212
New Jersey	1 436	1 554	1 537	1 229	1 514	1 526	940	1 068	1 072
New Mexico	–	–	–	–	–	–	–	–	–
New York	4 195	4 280	4 555	2 308	2 730	3 333	3 230	3 648	3 140
North Carolina	3 043	2 853	2 863	419	540	645	259	529	720
North Dakota	154	259	268	128	137	157	18	21	28
Ohio	4 070	4 110	4 48[illegible]	1 936	1 921	2 777	240	260	444
Oklahoma	684	949	1 054	834	950	1 084	37	37	46
Oregon	406	443	482	729	807	845	102	150	149
Pennsylvania[a]	5 182	6 218	5 894	1 397	1 751	3 787	1 866	1 883	5 893
Puerto Rico	506	668	830	39	81	140	39	80	167
Rhode Island	180	220	261	199	247	297	92	107	122
South Carolina	1 928	2 484	2 909	468	640	640	248	287	327
South Dakota	188	252	306	139	199	213	25	30	35
Tennessee	1 483	2 000	2 120	1 640	1 640	1 700	355	465	585
Texas[a]	1 934	2 109	3 434	1 678	1 678	2 193	389	530	629
Utah	148	177	197	10	35	16	49	72	116
Vermont	106	134	173	41	65	85	26	43	43
Virginia	1 646	1 755	1 830	981	1 150	1 283	254	343	364
Washington[a]	979	1 009	1 007	517	533	543	365	376	384
West Virginia	897	875	1 148	272	536	947	57	91	148
Wisconsin	1 771	1 783	1 802	1 245	1 294	1 344	564	710	910
Wyoming	138	145	148	227	231	219	38	48	58
American Samoa	8	8	8	2	8	14	0	0	0
Guam	44	52	52	6	16	14	0	7	7
Trust Territories	9	21	33	4	8	12	0	18	24
Virgin Islands	46	52	58	7	12	24	4	8	12
Bur of Indian Affairs	90	74	148	47	72	74	10	34	67
Total	71 678	79 491	85 097	43 998	52 239	61 566	21 707	32 900	42 076

TABLE D-3.4 (Continued)
Special Education Teachers Available and Needed by Type of Handicapping Condition of Child Served, School Years 1976-77 to 1978-79

State	Other Health Impaired			Visually Handicapped		
	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79	Teachers Available 1976-77	Teachers Needed 1977-78	Teachers Needed 1978-79
Alabama	81	170	187	6	50	64
Alaska	8	21	55	5	9	17
Arizona	1	1	1	100	108	112
Arkansas	39	39	39	43	45	55
California	411	473	388	406	430	451
Colorado[1]	—	—	—	43	45	48
Connecticut	36	66	96	69	93	117
Delaware	1	2	3	12	10	16
District of Columbia	21	32	34	32	33	16
Florida	289	316	321	109	174	175
Georgia	152	158	175	96	98	114
Hawaii	139	—	—	5	5	10
Idaho	28	32	39	44	53	57
Illinois[2]	—	—	—	189	227	275
Indiana	102	436	436	77	249	288
Iowa	65	92	130	48	87	116
Kansas	28	40	55	40	44	58
Kentucky	163	186	230	41	27	33
Louisiana	127	132	217	98	83	113
Maine	—	12	—	—	24	15
Maryland	28	13	28	52	70	90
Massachusetts	128	150	153	160	169	174
Michigan	155	144	133	138	137	137
Minnesota	138	139	140	42	58	78
Mississippi	—	99	215	22	44	75
Missouri	0	0	4	22	28	44
Montana	1	1	1	1	1	1
Nebraska	0	0	0	32	34	36
Nevada	5	—	23	8	—	6
New Hampshire	131	149	164	20	22	28
New Jersey	343	355	387	113	116	117
New Mexico	—	—	—	—	—	—
New York	1,055	1,127	1,013	356	369	443
North Carolina	41	170	185	63	135	150
North Dakota	0	0	0	2	4	9
Ohio	66	138	169	119	134	196
Oklahoma	0	0	0	30	36	36
Oregon	24	28	34	34	35	35
Pennsylvania[3]	—	—	—	193	314	93
Puerto Rico	21	33	68	7	30	70
Rhode Island	0	0	0	7	7	7
South Carolina	124	152	152	54	111	85
South Dakota	2	2	2	13	17	18
Tennessee	270	280	340	145	163	200
Texas[4]	—	—	—	64	85	129
Utah	54	57	60	1	3	1
Vermont	5	5	5	61	61	61
Virginia	11	4	4	54	65	71
Washington[4]	5	5	5	18	19	19
West Virginia	93	61	105	33	38	62
Wisconsin	34	54	78	80	83	87
Wyoming	4	6	9	3	3	3
American Samoa	1	1	1	1	2	2
Guam	0	0	0	4	4	4
Trust Territories	5	8	11	4	8	12
Virgin Islands	0	2	4	2	2	8
Bur. of Indian Affairs	—	21	36	1	16	36
Total	4,977	5,855	6,698	3,487	4,317	4,746

NOTES TO TABLE D-3.4

SOURCE: Tables 2A, B, and C of State Annual Program Plans for FY 1978. A dash generally indicates that the data were not available to the States.

1. Includes regular, special and itinerant/consulting teachers.

2. Colorado, Illinois, Pennsylvania and Texas each reported a combined count for teachers of the orthopedically impaired and other health impaired. Mississippi similarly reported a combined count only for available teachers. The counts are shown in the orthopedically impaired column; dashes are placed in the other health impaired column. In Illinois, the count of teachers needed for 1977-78 for the hard of hearing includes audiologists.

3. Washington reported a combined count of teachers for the speech impaired and teachers for the learning disabled. The count is shown in the teachers for the learning disabled column; a dash is placed in the speech impaired column.

4. Eleven States reported only combined counts of teachers for the speech impaired and speech pathologists. In Florida, Georgia, Illinois, Indiana, Kansas, Missouri and Tennessee, the counts were reported under teachers of the speech impaired and are displayed in this table. In Connecticut, Louisiana, Ohio, and Pennsylvania, the counts were reported under speech pathologists and are displayed in Table D-3.5.

Mr. WEINTRAUB. We thank you and the committee for the opportunity to appear once again. We are here to speak to the issue of Public Law 94–142, and other programs for the education of handicapped children.

We find ourselves after nearly 3½ years since the enactment of Public Law 94–142, but in reality in the first year of its full implementation. I think it may be important to take a brief look at why did the Congress pass Public Law 94-142.

There were three kinds of issues, really, that were affecting children. One was the realization that not all handicapped children were receiving the opportunity for an education. There remained children in this country for who many opportunity to participate in public education did not exist.

Second, there still remained, despite court cases, and despite all the payments that we know about, many handicapped children who were not receiving an education that was appropriate in any way to their needs.

The third issue was that there was concern over the procedures under which the system worked in making decisions about children. So we had problems of children being misidentified, of children being inappropriatley placed, and those kinds of things.

Public Law 94–142 was an attempt to nationally address those issues, and we believe it addressed those issues very well.

I would have to agree with Senator Berman that in a sense the Federal Government put itself in a partnership with the States and the local governments. One, in a joint partnership for the administration and enforcement of the law; second, in a partnership in relationship to some fiscal responsibility concerning the education of handicapped children.

But I think that there was a larger theme that was expressed in all of this, and I think that it is an important one to keep in mind as we proceed with the issue of the financing of the law, because I think it will affect any decision that we make not to finance the law.

I guess it goes back to a term that Congressman Brademas used consistently throughout the hearings, and has used consistently in a number of issues concerning children, and that is the concept of vulnerability. These children were vulnerable children. They were vulnerable to the varying decisions that society had made about them. They were vulnerable to school budgets. When the school budgets were tight, handicapped children were the first to go, simply because nobody thought that it was really important, and they could not fight for themselves.

We saw that pattern over and over again through our history. New Jersey in the year 1911 mandated education for handicapped children. New Jersey in 1979 is still trying to meet its 1911 mandate as well as the mandate of 1975, that is, Public Law 94–142.

What does that lesson tell us? What this lesson tells us is that mandates are as good as the commitment of all parties to respect and enforce those mandates. Why didn't State mandates work? Because the legislatures passed the mandate, and then walked away from its responsibility to either enforce it, or to fund it. Very quickly the message got out to the local school districts, "Mandates are only pieces of paper, and if you are not serious about the law, then we are not serious about its implementation."

Education Turnkey System, which is a research firm, has conducted a study of the implementation of Public Law 94–142 during its initial years, and has said the following:

> First, compared with recent education legislation, never have so many State education agencies and local education agencies initiated so many activities with relatively few Federal resources to implement the provisions of the Federal mandate. In all sites, some initiatives have been undertaken to implement the provisions as quickly as possible in spite of increased time burdens and scarce resources. The amazing thing, I think, to many people is that there has been a serious effort throughout the country to implement Public Law 94–142.

Stanford Research, in a research that it did on some aspects of the implementation of the law said, basically, that the requirements of the law in many cases are now being met. The next question is whether the intent and the spirit of the law will be met.

What are some of the consequences of the no-growth position suggested by the administration? I have listed on pages 4 and 5 of my statement six possible consequences, and I would like to give some examples of those six very briefly.

The first suggests that there may be a backoff from the promise. This is what I was trying to indicate a few moments ago by suggesting that now that we are in the first full year of implementation of the law. We are in fiscal year 1979, and we are talking now about the budget for fiscal year 1981. You have to understand the people out in the real world are not looking at 1981. They are looking at this year. But the messages that they hear are the decisions that the Congress is making about 1981, and those decisions convey the message about its implementation.

If they hear no growth, then, their interpretations may very well be that the Congress, that the administration is not serious about the implementation of Public Law 94–142.

What I am saying is that the issue is much bigger than how much money is needed. The issue is a symbol of good faith and of the seriousness of the Congress and of the administration to enforce, and to see that this law is carried out.

If during this first year of implementation of the law, the message is sent forth from Washington that we are not serious about the law, which I think is reflected in the symbol of no growth fiscally, then the interpretation may be that we can now, at the local or at the State level, back off from the effort that we have tried to make.

I will skip No. 2, which is simply one that says whatever decisions we made not to do it, if the programs end up being provided, then it is going to end up being provided out of other sources of revenue.

I think that the third is very important, and that is, there is a way of meeting the requirements of the law and not improving the education of the children. We are beginning to see that happen. Fine, we will serve these handicapped children, but we will put them into classes that are too large. We will simply increase the program without increasing the cost in relationship to the program.

I visited one city recently, in which I found resource teachers, these are teachers who are working with the children on a part-time basis, who have caseloads of 60 and 70 children, where normally a reasonable caseload for a resource teacher would be in the neighborhood of 20 to 30 children.

When you get 60 children, that you have to see on a regular basis, and you have to do specialized and individualized programs for these children, and all of that, it simply becomes impossible to do it.

So in a sense, while meeting the requirements of the law, the quality of the education for the children, which is what we were really trying to achieve, may be negatively affected. I think that this is beginning to happen as the monies get tighter and tighter.

As you have mentioned, Congressman Simon, the example of the Chicago area, with the children jammed up in the diagnostic system. I would report to you another city, which I would rather not mention at the moment, that unofficially reports to us 40,000 children in that city are simply jammed up in the diagnostic process.

What is the best way not to serve handicapped children is to not know you have them. What you simply do, when teachers refer children, and they say: "We need to have the children evaluated." You just jam up the evaluation system, and you make it last 6 months, 8 months, or a year. What you do, you keep children from being served. Keeping children from being served means that you do not have to spend money to serve them.

That city reports approximately 40,000 children who have been referred for evaluation, but who have not been evaluated mainly because the community does not have the money to serve the kids, if they evaluate them and find out that they need services.

I can report another very small city in this country where there was actually a memorandum from the superintendent of schools to principals and others, saying: "Stop finding kids. We cannot afford to serve them if you find them."

I will talk about preschool children in a few moments.

Finally, it is the simple concern that many of us have that we may engage in the game of robbing Peter to pay Paul. It is very easy to simply juggle the budget, and to say that we are serving handicapped children. We will take it away from other children in our school system.

We would hate to see that, and we don't think that it serves the interests of children very well.

I will skip my comments on the allegations that have been made that there are monies in the pipeline. I think if you read my comments in this regard, I think you will find that that simply is not true. It has been an effort on the part of the budget people to show that there is money where there really isn't.

It was mentioned previously by Senator Berman, and I will not repeat it, on Public Law 89-313, which is aid to state-supported schools and institutions, the Administration has once again proposed breaking the law.

The law says that the money is not subject to appropriation, and it is automatically appropriated by coming off the top of title I. What the Administration has proposed in their budget is not appropriations language, but proposed legislative language, which would be to change the allocation formula.

Last year, this committee met and considered this matter. It faced the question: Should we change the approach of funding Public Law 89-313? It was debated and it was brought up, and the committee decided, "We will not change the approach."

In the elementary and secondary education amendments, you said you would not change the approach. Now the Administration and the budget have suggested language which would change the approach.

I would like to emphasize the preschool issue. It is important to remember what the committee did in the passage of Public Law 94–142. The earliest versions of the law are in the bills, and said that it mandated preschool programs as well as school-age programs.

Then the committee decided that it did not want to go that far. It did not want to mandate programs down to age 3, but to leave that optional to the States, saying that those States that had their own mandates would have to live up to them. Those States that did not, would not be required by Federal law to serve children between the ages of 3 and 5.

Then the Congress said: "But we are really concerned about those kids, because the preschool program is probably the most critical thing we can do for those children. Serve a blind child at age 3, and you have got a chance of educating that child. Wait until that child is 6 and 7, and you have lost the child in many cases." Preschool programs are critical for these children.

So the Congress said: "We will go to an incentive program. For every preschool child you serve, we will give you a $300 bonus, because that way we will try to buy change when we cannot mandate it, or are not willing to mandate it."

What happened? This year, we should be receiving $66 million for that incentive. The appropriation was $17 million and the Administration has suggested cutting it back to $15 million.

Let me tell you very bluntly what has occurred. The preschool movement for handicapped children in this country had been ground to a halt. It has stopped. Where States were serving those children, they still continue to serve them. Where States were not serving those children, they are not serving them now. The reason why is that they have put all of their resources into meeting the requirements of Public Law 94–142, to meet the school-age kids, and they are not serving the preschool kids.

Your whole idea of the incentive has not worked because it has not been an incentive. The money has not been available. The Administration has now suggested cutting back, instead of fully funding, and this is throwing the whole question of educating preschool children into tremendous or even greater jeopardy.

Two other comments, very briefly, one is, the Administration is also proposing a small cutback in the area of personnel development. I would pick up on Mr. Kramer's comment, which dealt with the mainstreaming issue. The biggest problem we have got with that issue is not what the law requires, but it is people's perception and misunderstanding about what the law requires.

The problem is fear. The problem is a variety of lack of skills on the part of people. The only way we can overcome that is to go out and reach people, train people, and improve the quality of the people who work with kids directly, or indirectly.

To suggest in this first year of the law that what we ought to do is to cut back on personnel development, cut back on the training moneys that are available to help educate people as to how to implement this law, is also, I think, incredibly insensitive.

The final point would be research and development. I know in this day and age the last thing that anyone wants to talk about is money for research. The research and development is very difficult. For me to suggest that we need to invest more in research and development at the same time that I talk about the need for money to serve kids.

This program has been held constant for a number of years. If we look at some of the things that we are producing, things to take this page of print, and put it down and read it out loud, a machine that will read it to the blind so that we don't have to convert it into Braille. The technology, the need to bring technology to the problems of the handicapped, to convert this.

What I am asking and suggesting is that for the first time in a few years, let us at least put in an inflation increase, because what we are doing, we are going downhill in the research at a time when we ought to be going uphill and improving research and technology to help reduce some of these problems.

So I am not asking for huge money, but just simply to say, for the first time in a few years, let us at least put in a small inflation increase so that we can hopefully see the research effort continue.

Thank you, Mr. Chairman. If you will bear with us, Dr. Gibson and Ms. Levine would like to make a short statement.

Mr. SIMON. Dr. Gibson.

[The prepared statement of Dr. Gibson follows:]

STATEMENT OF DR. ROBERT C. GIBSON, DIRECTOR OF SPECIAL EDUCATION, HEARTLAND AREA EDUCATION AGENCY, ANKENY, IOWA

I am Robert C. Gibson, Director of Special Education for the Heartland Education Agency in central Iowa. In 1974 the Iowa Legislature created 15 intermediate educational service units to serve local school district's, singularly and jointly shared needs, under regulations of the State Department of Public Instruction. Eighty-five percent of our services are for the handicapped residents of our 63 member school districts. The quality and quantity of direct and indirect services are on the premise of free and appropriate educational service as near to the child's home community as possible. Because of the distribution of the children throughout the 11 counties (8900 square miles) and the varying size of the local administration units, a multi-district administrative unit with limited specific services to be provided was necessary. Eighteen districts have less than 700 pupils enrolled in grades kindergarten through 12th; 27 contain 700+ to 1500 pupils while 17 enroll 1500 to 8000 students. One district, our capital city Des Moines, serves 35,000 pupils. None of those administrative units can operate independently from the special educational needs of all children in the area. The unique combinations of programs equalize the education opportunity for handicapped children regardless of their place of residence.

Our staff of 378 specialists (psychologists, speech clinicians, occupational and physical therapists, consultants, itinerant teachers and others) provide the diagnostic, evaluation, instructional material and methods support for 618 special education teachers and over 7000 regular classroom teachers. Together in teams of 2 to 20 they combine their knowledge and skills to serve 11,815 handicapped children. Four thousand of those children are full time regular class enrollees; they receive less than 2 hours per week therapy or special instruction so that they can maintain themselves in regular programs. Six thousand one hundred and forty-two were enrolled in resource room programs 100 to 800 minutes per week while they spent the balance of 1800 minutes per week in regular programs. Only 1673 pupils spent their full school day in a special class, yet most of them spent some part of each week with less impaired or normal children. To identify and more appropriately serve these and other impaired children, we estimate a need for 70 more support personnel and 150 special teachers. The preschool aged,

children with emotional disabilities, and the severe and profound multiple handicapped children need more appropriate services. Of the 11,815 listed above, I regret to admit, that 296 are less than appropriately served, and we estimate that approximately 1200 are underserved. These will be appropriately educated provided the federal, state and local momentum is not destroyed by the attitude that great things have happened and that we can coast to total fulfillment.

Inflation must be met and additional funds for new program growth are essential. Our State Board has provided, with assumed legislative support, a cost of inflation factor. They also granted for half of our request for new positions a $230,000 increase. This simply cannot finance the needed 70 support personnel. By reallocation of current budgetary line-item accounts, I am hopeful that we will be able to have 30 new staff next year, if they are available for employment in our area.

Before sounding pessimistic—for the record—we consider ourselves to be among the most fortunate states. Our public and governmental support is most appreciated. All programs in all corners of our state have increased rapidly over the past four years. In general, they have doubled in numbers and quality. It illustrates what happens when federal, state and local community and government agencies set priorities and provide means for attainment.

Table I indicates special education/total education program expenditure levels since 1975 for the state of Iowa. The state has continued its commitment to quality education for all children while financing the regular education program at a 98% increase level while the expenditure for special education shows an 80% increase. To the critics who state that money for special education was taken from regular education, I can only say, "Not in Iowa."

Federal incentive by enactment of P.L. 94–142 and the subsequent funding levels have assisted us greatly to equalize the special education growth. Table II indicates the federal funded amounts and the percent it is of total state, local and federal expenditure. The tenfold increase anticipated by next year will help us maintain a ratio of 10 regular education dollars for each special education dollar. The positive prior adopted federal authorization levels must be appropriated in order to motivate and finance the continued growth if we are going to be able to certify full service within the near future. (Footnote: My pride in our accomplishment and concern for continued needs are reinforced by my consultative services in Massachusetts, Tennessee, Minnesota and Pennsylvania.) A vast variety of degrees of full service exists within and across these states. Where local and state agents have governed their programs in the intent of Congress in P.L. 94–142, handicapped children are being served most appropriately.

In Iowa a major commitment was made to serve the preschool aged children below the age of five. All recognized research indicated that by the time they reached junior and senior high school, students who received preschool educational programs achieved at higher performance levels than their not so fortunate peers. Table III indicates that 911 of the 5402 handicapped children received special education programs and services financed by local and state dollars (these programs were begun prior to when federal funds were available). With continued dedication by the Congress to its previous authorization levels, we anticipate that within the next two years we will close the gap on the unidentified, unserved and less than appropriately served children.

In conclusion, let me report a not too distant historical record. I believe it will demonstrate what happens to the rate of program expenditure when parents and administrators are not led by the convictions of their fiscal officers. Table IV is a copy of one presented in October, 1973 to a U.S. Senate Public Hearing in St. Paul, Minnesota. It lists the state appropriation levels for special education programs in Iowa. During the years prior to 1973, the appropriations stayed virtually stable and the prorated amounts were also fairly stable. No incentive by legislative leaders brought limited growth in services. It was not until The Education for All Handicapped Children Act did our fiscal leaders speak out with strength. It is essential for all the handicapped children, not only those fortunate enough to live in Iowa and a few other states, but also for those in Iowa and other states who are yet denied full services to meet their educational needs.

TABLE I.—SPECIAL EDUCATION/TOTAL PROGRAM EXPENDITURE LEVELS

School year	Special education	Total education
1975–76	$90, 731, 616	$890, 370, 000
1976–77	118, 176, 624	984, 901, 000
1977–78	131, 783, 791	1, 197, 487, 000
1978–79 (estimate)	146, 752, 934	1, 467, 580, 000
1979–80 (estimate)	162, 863, 112	1, 750, 000, 000
Percent increase	(80)	(98)

TABLE II.—INCREASE OF FEDERAL FUNDS

School year	Federal funding levels	Ratio Federal/ State
1975–76	1, 332, 112	1. 45
1976–77	2, 634, 753	2. 18
11977–78	3, 293, 313	2. 40
1978–79 (estimate)	8, 020, 418	5. 10
1979–80 (estimate)	11, 736, 242	6. 70

TABLE III.—*Special education preschool-aged pupils*

Population estimate based on 3.176 percent of total population	6, 391
Pupils served Dec. 1, 1978	5, 402
Percent served	84. 5
Number in local/State programs	911

TABLE IV.—STATE OF IOWA: SPECIAL EDUCATION—REIMBURSEMENT DATA

Year	Pro rata (percent)	Appropriation
1953–54	89. 9591848	$526, 000
1954–55	78. 6035606	526, 000
1955–56	74. 2363610	675, 000
1956–57	61. 3776061	675, 000
1957–58	57. 9545464	800, 000
1958–59	48. 41837526	800, 000
1959–60	52. 2632029	1, 000, 000
1960–61	43. 6297142	1, 000, 000
1961–62	43. 0111301	1, 500, 000
1962–63	36. 8206314	1, 500, 000
1963–64	31. 6625509	1, 500, 000
1964–65	27. 4355804	1, 500, 000
1965–66	40. 6933220	2, 500, 000
1966–67	37. 0749015	2, 500, 000
1967–68	41. 6466905	3, 500, 000
1968–69	34. 5596378	3, 500, 000
1969–70	27. 9252815	3, 465, 000
1970–71	25. 5501590	3, 465, 000
1971–72	26. 6123997	3, 665, 000
1972–73	26. 5530808	3, 665, 000

STATEMENT OF DR. ROBERT C. GIBSON, DIRECTOR OF SPECIAL EDUCATION, HEARTLAND AREA EDUCATION AGENCY, ANKENY, IOWA

Dr. GIBSON. Thank you, Congressman.

Basically, the Heartland Education Agency is a composite of 63 independent school districts. The State of Iowa made a commitment to create education service units to insure special education programing, and other special services in smaller school districts.

My opening statement describes our unit, and I will not go into any detail. Basically, we serve school districts from the size of 200 students K through 12, to the largest school district in the State of 35,000 children. The point that is important to make is that none of those school districts can independently care for its own children without the consideration of its neighboring school districts.

So this cooperative effort on the regional level is essential.

My staff of 378 specialists work with some 600 school teachers in special education, and 7,000 regular classroom teachers, spread out over an 11-county area. So we move from dense metropolitan areas into the isolated rural areas. So we feel that we have an overview of all of the administrative kinds of problems that you have in individualizing education programs for handicapped children, if we are to educate them as near to their point of residence as possible.

Currently, we are serving 11,815 handicapped children. I regret to state that probably 296 of those are less than appropriately served, and probably another 1,200 children that we have not yet recognized as needing services. We feel that we are about 85 to 90 percent of service, and we look forward to being able to be a full service within the the next 2 years.

The point of inflation has been mentioned, and our legislature recognized this, and permitted our budget for next year to include a cost of inflation factor. They also granted us half of our request of 70 new positions. They granted us $230,000 for new positions. Obviously, that cannot finance 70 positions, so we are hopeful that maybe 30 positions will be able to be employed next year, if the people are available.

We appreciate the Government and public support that we have had. Our program has doubled in the 4 years. That is tremendous growth, considering that our state had a special education law on the books since 1946. We were serving about 30 percent of our handicapped children as recently as 5 years ago. I can say that now we feel that we are serving about 85 percent.

In table I, I have tried to show how the State of Iowa has increased its commitment to special education services statewide as well as total education. Many people thing that because of the rapid growth of the services for handicapped children, there has been a disproportionate amount of money going to handicapped children. The record, as stated here, since 1975, and the estimate for the 1979–80 school year, show that we anticipate an 80-percent increase in funding of special education, while our total general education, the K through 12 program, has increased 98 percent.

In table II, the State has been very fortunate in its entitlements under the Federal legislation, and the record of the past 5 years is there showing that the Federal portion of our total expenditures for handicapped children has increased from 1.4 to 6.7 percent. Of 11,700,000 for our schools in Iowa, it is anticipated that in our area we will have $1.5 million of that to serve some 900 handicapped preschool-age children below the age of 5.

In table III, the special education of preschool-aged pupils, we anticipated a modest 3-percent incidence rate for preschool handicapped children. We currently are showing in the State of Iowa, 5,400 of those children who are being served.

Under the Public Law 94–142 State plan, the State of Iowa made the commitment to use its Federal funds for preschool handicapped children. We recognized the research that showed that children who received preschool education, by the time they were in junior and senior high school, they were much higher achievement levels than were their peers who had not had preschool services.

We think that we are making a great investment in the future at $1,500 to $2,000 per preschool child, that will save us some $4,000 to $5,000 at a later age.

I want to pick up on this commitment on preschool, and if I may, I will read a recent letter that I received from one of my parents:

> Because of the concentration in our area of mentally handicapped children under the age of 3 years, we feel some kind of group interaction would be appropriate. We could meet for 1 or 2 hours twice a month with the speech therapist, the physical therapist, a preschool teacher, and each of them could have their own block of time. This would also allow action with the mothers, and with other children. The staff could give us suggestions on how we could help our children more, plus discuss problems and help support each other's morale. I think that it is a good idea and it needs consideration.

We are committed to provide preschool education insofar as possible within the home, supporting the family unit. Touching on the need for leadership, the appropriation level and the authorization level, I slipped in the statement on table IV, which shows the amount of reimbursement our State provided between 1953 and 1973 for special education programs in our schools.

It is very obvious that there is a relationship between the commitment of fiscal officers at the State level and the Federal Government. Although our State law stated that we would be provided 100-percent reimbursement, as you can see the proration gradually deteriorated over the 20-year period. As I said, we increased our programs at the point of 1973–74, when we were serving about 30-percent of our children, over a 20-year period, we made that kind of growth, whereas we have made double the growth since then.

The point I want to conclude with is that this indicates the fiscal leaders set the tone and direction of programs at the local level by the financial support and commitment they make to our programs.

Mr. SIMON. Thank you, Dr. Gibson.

Ms. Levine, do you wish to make your statement now?

Ms. LEVINE. Certainly, and we also have a formal statement that we would like to enter into the record.

Mr. SIMON. All right, we will enter that in the record.

[Prepared testimony submitted by Ms. Levine follows:]

TESTIMONY BY THE MASSACHUSETTS DEPARTMENT OF EDUCATION

We appreciate the opportunity to testify before you today. As a State that has been involved with a comprehensive State mandate in special education for five years we felt it would be helpful to share with you the programmatic impact of a funding level that is substantially below the anticipated authorized level. The growth and commitment to special education in the State of Massachusetts has been well documented. For example:

(1) Children receiving Special Education in: fiscal year 1974, 76,516 (6 percent of total enrollment) fiscal year 1978, 154,574 (14 percent of total enrollment).

(2) Costs of Special Education is:

Fiscal year 1974:	
Local	$69, 629, 752
State	31, 446, 431
Federal	3, 000, 000
Total	104, 076, 183
Fiscal year 1978:	
Local	116, 387, 679
State	140, 619, 803
Federal	17, 146, 000
Total	274, 153, 482

(3) Statewide average per pupil costs in Special Education in fiscal year 1974, $1,957; fiscal year, $2,629 (a 34-percent increase).

The fiscal year 1978 average per pupil cost for regular day was $1,628.

There has also been substantial movement into less restrictive programs during this period of time. The number of children in state institutions has been reduced by 1,000. The number of children placed in private schools prior to the State law has been reduced by 2,000. The number of children receiving services from local school districts, who used to receive services from state human service agencies is 5,000. Other State and Federal agencies were not required to demonstrate any maintenance of effort under P.L. 94–142.

Therefore, these responsibilities and costs must now be borne by public schools. Also 326 children have been brought back from out-of-state private schools.

Massachusetts does not have any surplus funds. Both the state and local school districts are faced with caps on spending and, level funding. Much of the thrust to aggressively implement P.L. 94–142 was predicated on the promise of federal dollars. Quality programs are dependent on these federal dollars if we are to continue to implement the law.

At the proposed 12% level Massachuetts anticipate receiving approximately $24 million dollars in federal funds under Public Law 94–142 for fiscal year 1980. If the 12% were raised to the authorized level of 20% we would anticipate another $16 million dollars. Should the national child count figure turn out substantially higher than anticipated we will receive less than the anticipated $24 million under the 12%.

The children requiring services have been identified but there are still populations which are substantially underserved. Included in this area are: incarcerated and court adjudicated youth, students requiring vocational education and special education, pre-school students. In addition states and local schools must achieve true quality of services. We would define true quality as optimum programming that is cost effective and provides for maximum choices for the students. Cutting across all of these thrusts is the need for new training and retraining of staff.

If a state is really to fulfill the national mandate, which includes services to incarcerated and court adjudicated youth, then substantial new money is needed to develop programs for this population. There is little in the way of regular education, vocational education or special education in any of these facilities. It is unreasonable to expect local schools to serve these young adults when the state of the art just is not developed yet. To develop these programs in Massachusetts alone would take several million dollars.

A similar situation exists relative to the interface between special education and vocational education. Many of the existing vocational programs are over subscribed. It is unreasonable to deny one student access in order to provide services to another. In a time of local property tax caps school districts can only expand these services through new federal dollars. Secondly, there is a need for massive training in this area. Even in Massachusetts where training programs are advanced there is only one state college with a fully developed program in the area of vocational/special education training for professionals. An additional several million dollars would be needed to develop these two areas of special education in vocational education programs.

Thirdly, we have the area of early childhood. In order for early childhood programs to be fully developed many agencies and professionals in each community must learn to work together. Services to children ages three to five are generally not available in school districts. Yet, we are well aware that letting a substantially handicapped wait until age five is to do that child a real injustice. But training programs and program models are just now beginning. These students and their parents often require services to be delivered in the home a milieu that is unfamiliar to most educators. Substantial new money is needed to train professionals, and parents to educate these young children.

We cannot expect special educators and regular educators to explore new ventures when they lack the appropriate skills. We cannot ask people to leave their jobs in order to gain these skills. The need for in-service training is paramount. There must be incentives provided so that professionals will avail themselves of further training. If training activities are not expanded then appropriate special education will not be available. For example, there is a very high turnover rate of professions working with the severely handicapped. There is an even greater need for more physical therapists and for physical education teachers to be retrained so that they can adapt their programs to include all youngsters. But these programs all require new funding efforts.

Finally, a state like Massachusetts is faced with substantial numbers of educational and public buildings which are not barrier free. Section 504 is an important statute, but the authorization for federal funds has never been fulfilled. In a state with many many older buildings there is a massive need for modifications in order to accommodate the handicapped. The installation of one elevation costs $15,000, of one ramp costs $5,000–8,000. With the local tax caps these renovations cannot be borne totally by the property tax. Nor is it reasonable for the federal government to impose mandates and then provide no funding with which to meet those mandates.

When Public Law 94–142 and Section 504 were passed states and local communities expected that the federal government would honor its commitment to provide the federal dollars that were authorized. Planning was begun with this expectation. It is unreasonable to underfund these statutes before their mandates have been met.

STATEMENT OF BAMBI LEVINE, MASSACHUSETTS STATE DIRECTOR OF SPECIAL EDUCATION

Ms. LEVINE. Massachusetts has had a comprehensive special education program similar to that of Public Law 94–142 that has now been in effect for 5 years.

During that time, and in fiscal year 1974, just over 76,000 youngsters were in special education, which was 6 percent of our total enrollment. In fiscal year 1978, we are now over 154,000 youngsters being served, which is 14 percent of our total enrollment.

The total amount of money spent for those 2 years in our State is $104 million in fiscal year 1974, and $274 million in fiscal year 1978. Our statewide average cost for special education has gone from $1,900 to $2,600 per student, with our regular day average cost of $1,600.

There has been a substantial movement in our State into less restrictive programs during this period. One of the incentives that has allowed that to happen has been Public Law 89–313 funds. Over 1,000 children have left State institutions, and over 2,000 children have left private schools to be served by public schools. Over 5,000 children who used to be served by human service agencies are now receiving services from their local school districts. One of the things that Public Law 89–313 funds allow is that the money follows the child, when the child is able to transfer to a less restrictive program.

One of the problem areas, as we see it, with Public Law 94–142 is that no other State or Federal agency is required to demonstrate any maintenance of effort. So all of this transfer has resulted in those costs

now being borne by either the State education agency, or the local education agency.

We have also been able to bring back more than 300 children who were in very expensive out-of-State private schools, who are now receiving their education within Massachusetts.

We, as a State, do not have surplus funds. Both the State and local school districts are now faced with caps on spending and level of funding. Much of the thrust to aggressively implementing Public Law 94–142 was predicated on a promise of Federal dollars. Quality programs are dependent on these Federal dollars if we are to continue to implement them and stay within the law.

At the proposed 12-percent level, Massachusetts would receive roughly $24 million. If the law were fully funded, we would receive an additional $16 million in the next fiscal year.

Should the national child count increase, and there are clearly vigorous efforts to try to do that, we, as a State, would receive less funding than the $24 million under the proposed 12 percent.

Although we feel at this point that we have probably identified all the children who require services, there are still children who are underserved in our State. Let me just point out several of these areas.

One is in terms of incarcerated and court adjudicated youth or students. Another is in terms of students requiring both vocational education and special education. A third is in the area of preschool programs.

Another thrust for us is to achieve true quality of services, which we would define as optimum programing that is cost effective, and provides for maximum choices for the students involved. Cutting across all of these thrusts is the need for training and retraining of staff.

In order to serve incarcerated and court adjudicated youth, substantial new moneys would have to be made available as well as programs developed. At least in our State, there is almost no regular education available for these youngsters, and very little vocational education, and therefore the total burden under Public Law 94–142 would fall to special education services if services were really to be provided in those facilities.

The interface between special education and vocational education is one that we are all facing together. These two groups of professionals have in the past not tended to work together, but work apart. With local property tax caps, the only way to expand these services is through new Federal dollars.

In many instances, there are not enough vocational programs available in general. It is unreasonable to deny one student access in order to provide services to another.

The area of early childhood has already been identified. It is an area where there is clearly a need to continue to develop programs as well as training for the professionals that are to serve.

Local schools traditionally do not serve students three to five. Therefore, this is a new area programmatically for them to experience.

Even in a State that has a number of training programs, we are still finding ourselves needing massive in-service training. There is clearly a high turnover rate of professionals, particularly in the area of severe handicapped. There are also professionals that still remain untrained, physical therapists, physical education teachers who now must adapt their programs.

In addition, we would like to comment on one other issue that clearly faces a State like Massachusetts, when there are substantial numbers of educational public buildings which are not barrier-free.

Section 504 is clearly an important statute, and should and is linked to Public Law 94–142, where there is authorization for Federal funding in order to make buildings barrier-free, but appropriations have never been made available. One elevator costs $15,000, one ramp costs $5,000 to $8,000. Again, in the light of local tax cuts, these renovations cannot be borne totally by the property tax.

It is unreasonable for the Federal Government to impose a mandate, and then not to provide the funding to meet these mandates.

When Public Law 94–142 and section 504 were passed, States and local communities expected that the Federal Government would honor its commitment to provide the Federal dollars that were authorized. Planning was begun with this expectation. It is unreasonable to underfund these statutes before their mandates have been met.

Mr. SIMON. We thank all three of you for your testimony.

Talking about the preschool child, it was interesting for me to read on table II, in your testimony, Mr. Weintraub, and to note that a State like Alabama serves 443 children. New York, if I may go just south of you, Dr. Gibson, New York serves approximately the same number as the State of Missouri. One-third of all the funds go to three States.

So our record is, obviously, a strenuously spotty one in that area.

How do we solve this diagnostic problem that you talked about, Mr. Weintraub, and in this connection I ask you, or perhaps this should be directed to a member of the staff, and that is—do we compile statistics on those who are just waiting?

Mr. WEINTRAUB. We do not. Basically, the only way you enter into a statistic is after you have been served, or if you are being served. So the distinction between those children who are served, and those children who yet need to be served is, in many cases, a series of guesswork based upon estimates and a variety of things like that.

The Office of Education has now begun, through some encouragement from various groups, to now take a look at some of the issues of what I call the jamup in the referral system. If it does not ameliorate, we may find ourselves needing or requiring some kind of reporting or monitoring of that system.

At the same time, I guess what I would really say, Mr. Simon, is that the school systems of this country are very clever. They are very creative in their ability to maneuver around requirements, reporting systems, and all of those things. I don't mean that as a discredit to them. But simply to say that when you are faced with the question of having no money to provide what the child needs once it is determined that he needs it, in a sense that is where the incentive really is, and that is the result—you end up not serving the children.

If you are in a State like Iowa, and Dr. Gibson could comment on it better than I can, if your reimbursement is determined in August or in September, and it determines how much money you are going to get for the whole year, and lo and behold you find a kid who needs help in November, you have to find the money out of your own resources to make it through the rest of the year for that child.

When you are in New York City, and you are talking about hundreds of thousands of children, or if you are in a rural area where

you have no money to begin with, then it becomes a very serious problem. That is why if we cut the Federal money, and if we don't go through these first years, I think that we are going to see more of this problem occurring, regardless of the enforcement machinery that we try to set up.

Mr. SIMON. Would any one of the three of you like to comment——

I am pleased to note the presence of the chairman of the full committee, and of the Elementary, Secondary, and Vocational Education Subcommittee. We are happy to have you join us here.

Would any of you like to comment on whether you have been able in any way to utilize CETA employees in these programs, and, if so, has it been a good experience?

Dr. GIBSON. I have had no experience.

Ms. LEVINE. There has been virtually no experience.

Mr. WEINTRAUB. I know some school districts are using CETA employees as aides. Certainly CETA has been an important program in some of the programs in State and institutional settings. The problem is often, again, the ability to depend, or have some continuity of programing.

I think Ms. Levine indicated that we have had problems, and I think that Senator Berman alluded to it. I know that it has been a problem in Illinois. It has been the interagency dilemma. Vocational education, for example, which for years in some States helped in the education of handicapped kids, particularly those in secondary schools, and helped in the vocational area.

Vocational rehabilitation turns around and says: "Good, now education is responsible, and we will pull our funds out that we have put in for years." That leaves the burden, then, on the public schools.

The Federal Government has tried now to work out interagency agreements, and there are agreements between special education, rehabilitation, and social services, and those things. But the implementation of those at the local level is continuing to be a problem, and the more other agencies run away, the more the fiscal burden, the less help from the schools.

Mr. SIMON. Mr. Kramer?

Mr. KRAMER. I only have one question. I appreciate your comments.

Assuming a level of funding which provided that which you request, one of the concerns that I have is that we are going to start identifying many children in our educational system as handicapped, who, at least in my nonprofessional judgment, are really not deserving of that kind of identification.

I have seen some instances of that. The more active a program we have, we develop an outreach program where you are actually trying to go out and, perhaps, categorize children who never thought of themselves having some sort of handicap.

This is a concern that I have had, and I would appreciate your comments on that.

Mr. WEINTRAUB. I think that it is always a danger. I would be not honest if I said that that danger does not exist. I don't think that Public Law 94–142 or the funding of it increases the danger. The danger has always been there, and will continue to be there.

I think we have to remember that even if we were to fund this law to the incredible eventual figures of it, which I don't think any of us

are even suggesting the possibility of, we are still not talking about the Federal Government picking up the major share of the costs. So you still have to accept that for every one of those kids that you identify, even falsely identify, the greater percentage of the economic burden of serving the kids is going to remain on the local and State governments.

So the Federal Government is never really creating a fiscal situation where there is just so much Federal money that it is worth doing that. So there really is no economic incentive.

The thing that the Congress tried to do in the law was to face that possibility, and to try to put as many protections in the law, what we call procedural protections and due process, to guarantee children and their families the right to participate in the decisions, so that no child is tested under this law without parental permission, or at least a vehicle for challenging the testing.

No child can be placed without permission, or at least procedures of due process to resolve it. I think we tried the delicacy and the vulnerability of these children and their families, and the possibility of abuse, and to try to provide the protection in the law, realizing that these things may occur. They always may in instances, but at least we are not showing the evidence that they are occurring in a significant fashion.

Mr. KRAMER. Thank you.

Mr. WEINTRAUB. Ms. Levine would like to comment on this question.

Ms. LEVINE. Let me just say that in our own State up until this year, special education has been funded off the top of the full pool of funding, which provided an incentive. Yet for the past 2 years we have had fewer referrals, fewer children identified.

So I think that early on this point of having more children referred was going to happen, but it does not continue. In the first 3 years, we had more evaluations taking place, and now for the 2 past years, we have had fewer.

Mr. SIMON. If my colleague would yield. What percentage do you identify in Massachusetts.

Ms. LEVINE. Fourteen percent are being provided services.

Mr. SIMON. Mr. Perkins.

Chairman PERKINS. First, Mr. Chairman, let me thank you for conducting this hearing. I just want to pledge my wholehearted cooperation to the subcommittee, and particularly the handicapped here, the affected group, in trying to obtain the best funding possible this fiscal year.

I will go with the organizations before the Subcommittee on Appropriations, and see if we can get your appropriation beefed up some. I don't know what we can do. It is going to be a lean year. But we will do everything in our power to make sure that the educational programs, education of the handicapped, and all of the good programs that we have worked so hard for throughout the years, are not cut back. We will see if we can add on some to take care of this inflationary process that is going on.

Let me compliment you for your statements here today, and compliment this great chairman on the work that he has done, and all the members of the subcommittee.

Mr. SIMON. Thank you, Mr. Perkins.

I might add that there is probably no Member of Congress who has done more unheralded work for the disadvantaged in our society than the chairman of our full committee. We appreciate your being here, and we appreciate your testimonial. Thank you very much.

We now have a panel composed of Mr. Michael Morris, Mr. Donald Trites, Mrs. Suzanne Kindrick, Mr. Frank Bowe, and Mrs. Margaret Buvinger.

I think that we will proceed to hear all the witnesses, and then we will have questions.

Before you testify, if you could indicate what your position is, and what organization or association you represent.

STATEMENT OF MICHAEL MORRIS, EXECUTIVE DIRECTOR, GEORGIA ASSOCIATION OF RETARDED CITIZENS

Mr. MORRIS. Thank you, Mr. Chairman.

My name is Michael Morris. I am here today testifying on behalf of the National Association of Retarded Citizens. I am presently employed as the executive director of the Georgia Association for Retarded Citizens, an organization that consists of 21,000 members, in 100 counties across the State of Georgia.

The Georgia ARC is one of 50 State units that compose the National Association for Retarded Citizens, an organization across the country of 300,000 members. Approximately half of our membership is parents, about another quarter of our membership consists of professionals in the field of education.

Mr. SIMON. If I may interrupt, we will be happy to enter your formal testimony in the record, if you wish to summarize. I don't mean to push the witnesses, but we do have some time constraints here.

Mr. MORRIS. That would be fine.

[Prepared testimony submitted by Mr. Morris follows:]

TESTIMONY

on

OVERSIGHT OF P.L. 94-142

THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

Respectfully Submitted

to

THE SUBCOMMITTEE ON ELEMENTARY,
SECONDARY, AND VOCATIONAL EDUCATION

and

THE SUBCOMMITTEE ON SELECT EDUCATION

of the

EDUCATION AND LABOR COMMITTEE

U.S. HOUSE OF REPRESENTATIVES

Presented by:

THE NATIONAL ASSOCIATION FOR RETARDED CITIZENS

Witnesses:

Michael Morris, Executive Director
Georgia Association for Retarded Citizens
and
Donald Trites, President
Board of Directors of Georgia Advocacy Office, Inc.

Tuesday, March 27, 1979

Mr. Chairmen and members of the Subcommittee on Elementary, Secondary, and Vocational Education and members of the Subcommittee on Select Education:

My name is Michael Morris. I am the executive director of the Georgia Association for Retarded Citizens, a consumer-oriented, volunteer organization consisting of 21,000 members in 100 counties. Over the last three years, as a practicing attorney, I have represented numerous handicapped children and their parents in an effort to secure quality public educational opportunities.

The Georgia ARC is one of fifty State units of NARC, currently composed of approximately 300,000 members who belong to our 1,900 local units throughout the country. Together, the Associations for Retarded Citizens form the largest voluntary organization in the United States. Slightly more than one-half of our members are parents of mentally retarded citizens, and approximately one-quarter of our members are professionals in the field.

Testifying with me will be Donald Trites.

My name is Donald Trites. I am the parent of a handicapped child, President of the Board of Directors of the Georgia Advocacy Office, Inc., the state protection and advocacy office in Georgia, and a college faculty member teaching in the area of educational policy at Emory University in Atlanta.

P.L. 94-142 has special significance to the thousands of families across Georgia who have been struggling for over eight years to seek full implementation of our own mandatory state special education law. The reaction of parents was and continues to be overwhelmingly positive to the promises of Congress to guarantee

the rights of handicapped children to " a free, appropriate public education" in the least restrictive environment and offer financial assistance to states and local school systems to reach this goal.

Upon the occasion of the passage of P.L. 94-142, one of the leading proponents of the legislation in the Congress said "This is the day that handicapped children and their parents can point to and say that this Congress--their Congress--recognized as a matter of national policy, the equal protection under the law that they have always deserved...In this Nation, in this society, a right to an education is not a great deal to ask. That right should be guaranteed. For those estimated 8 million unserved handicapped children and their parents, it should be an every day fact, not a legal matter...I think that today Congress makes a very important statement. It makes a necessary statement of principles about how we intend our handicapped children to be treated in the educational process."

That law also established the intent of Congress to fulfill its objective of participating as a meaningful fiscal partner with state and local education agencies in appropriate education services for those children.

The law established a formula in which the federal government made a commitment to pay a gradually escalating percentage of the national average expenditure per public school child times the number of handicapped children being served in the school districts of each state in the nation, the percentage to escalate on a yearly basis until 1982 when it would become a permanent 40% (NAPE).

On the basis of the current national average per pupil expenditure, the following authorization ceilings were estimated:

Fiscal 1978 - 5% - $387 million
Fiscal 1979 - 10% - $775 million
Fiscal 1980 - 20% - $1.2 billion
Fiscal 1981 - 30% - $2.32 billion
Fiscal 1982 - 40% - $3.16 billion

It will be recalled that the Congress appropriated $254 million and $563 million in FY '78 and '79 respectively, the equivalent of 5% and 10% of the national average per pupil expenditure times the number of handicapped children actually served. However, Congress' committment to a matter of "National Policy to handicapped children" has not been kept for FY '80 and is in serious jeopardy for FY '81.

The FY 1980 allocation of $804 million recommended by the Administration and duly appropriated by the Congress, represents 2/3 of the authorized level of 1.2 billion according to the funding formula under P.L. 94-142. For FY 1981, the Administration has requested $862 million which is approximately 1/3 of the authorized level of $2.1 billion according to the funding formula.

NARC strongly urges this committee to exert every effort in the House and in the full Congress to obtain the fully authorized level of $1.2 and $2.1 billion for FY '80 and '81 respectively for P.L. 94-142 state grants. To do less would seriously undermine the original intent of this committee and the Congress to aid the already fiscally strapped state education agencies and local education agencies in meeting this important mandate.

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In making our case for full funding, we will briefly review the status of implementation of quality education opportunities in the state of Georgia. We do not believe the Georgia experience is atypical; rather, for the most part, it reflects common problems facing parents and handicapped children across the country. Before revealing the Georgia record, it should be clearly understood that in order to achieve the goal of implementation of full educational opportunities for handicapped children, individualized education programs, mandatory parental participation in educational decision making, due process procedures, and the least restrictive environment principles change will be required. Resistance to change is a reality. New habits of thinking and behaving are needed. Change never comes easily or occurs quickly. Change will only be fostered by the federal government fulfilling its objective and participating as a meaningful fiscal partner with state and local education agencies in providing appropriate educational services for handicapped children. All too often, the right to an appropriate education for handicapped children has not become an everyday fact and frequently becomes a legal controversy. The number of court cases concerning evaluation, placement, appropriate education, or related service is increasing geometrically each week. Fourteen thousand children in Georgia remain on waiting lists for an evaluation or a special education program. Despite the assurances of the Act requiring individualized education programming to meet the needs

of handicapped children, many handicapped children across the state remain without individualized education programs. Many parents, unaware of their rights, sign an IEP that is sent home with their child without realizing the significance of their action. In many instances the practice is to develop an individualized education program based on available services rather than on the needs of a handicapped child. If a system lacks a speech therapist, then the IEP's for handicapped children within that system will indicate no need for speech therapy. It is our opinion that systems do not consider alternative placement options and a full array of related services to meet the unique needs of handicapped children due to a shortage of trained personnel, a lack of advanced planning and a lack of funding.

Despite the least restrictive environment requirements of the Act which offer an opportunity for all children to enrich their educational experiences and be more understanding of individual differences, many handicapped children remain in segregated special education centers. In Georgia, almost 1,000 mentally retarded children remain in programs run by the Division of Mental Health and Mental Retardation with noncertified teachers and no educational standards.

Despite the procedural safeguards section of the Act which offers parents the right to a hearing before an independent examiner to challenge placement as well as program content, no parent until recently had won such a hearing in Georgia. In October, 1978, in two cases, hearing officers rendered decisions favorable

to parents. In both situations, the local school systems have taken the parents to court rather than comply with the hearing decision.

There is a critical need for this committee to clarify the legislative intent concerning who may serve as an independent hearing examiner. Neither state nor local boards of education should be allowed to serve as hearing decision makers or reviewers. A board member has a conflict of interest when protecting and preserving the decisions made by personnel within the system, and/or keeping educational costs low even to the detriment of the needs of handicapped children. A final point about procedural safeguards we wish to make is to relate to you the experience of one parent who went to review her child's records. In the corner of the office where the files were kept was a paper shredder. Above the shredder taped to the wall was a handwritten sign which read "Due process stops here."

The decision making process of parents and education systems in developing placement and program plans for handicapped children has, in too many instances, been converted to an adversarial relationship when a parent suggests alternatives to system recommendations. In Georgia we have a way to go before the principle is established that handicapped children and their parents are not unreasonable when they expect to be given the benefits of their constitutional right to equal protection of the law. An affirmation by this committee of full parental participation in educational decision making would aid in further establishing a

cooperative relationship between parents and educators to assure more rapid realization of educational goals.

Monitoring of implementation efforts by the Bureau of Education for the Handicapped (BEH) has been slow and inconsistent. The Bureau of Education for the Handicapped now needs to move from review and approval of state plans to examination of actual practices, procedures, and programs in the states and local educational agencies. In addition, upon identification of problems, swift intervention should follow. The state departments of education should assume a stronger leadership role in compliance with the above related activities.

It is our concern that both local and state system plans may be underserving or not serving handicapped children due to the fear of being found out of compliance. This also perpetuates a low child count and continues to deny handicapped children the education they so justly deserve. The pressure is on teachers not to identify children as handicapped or to report the related service needs of handicapped children because that would cost the system more dollars to provide the services.

There continues to be limited coordination between other agencies and the education system as well as between special, general, and vocational education. We commend BEH for having developed interagency agreements with other federal agencies such as vocational education, vocational rehabilitation, social services and Medicaid. This is a very positive step in the right direction and should help alleviate the problem at the state and local levels.

There is a great need for additional dollars in personnel development to educate not only special education teachers but also regular education teachers, administrators and parents. States are projected to need as many as 85,000 new special education teachers in the next two years in order to provide adequate services to all handicapped children. Colleges and universities are currently producing only 20,000 new special education teachers each year. Due to the fact that the predominant placement for handicapped children during the 1976-1977 school year was the regular classroom with auxiliary services, support of in-service training for regular education teachers must be increased. The most neglected group in personnel development we believe are the parents who, for the most part, have not been made fully aware of the tremendous promises and potential of P.L. 94-142. Parent training must be continued and expanded.

Another major area of concern to NARC is the proposed reduction in the Preschool Incentive Program. Preschool resources have actually been reduced in the President's recommendations from $17.5 to $15 million. We cannot afford to cut the preschool incentive grants. Research has indicated, and practice has proven, that the earlier a child's handicapping condition is identified and an appropriate educational intervention is begun, the more efficiently and effectively the handicapping condition can be ameliorated. Therefore, both the time line for intervention is reduced and the cost of intervention is reduced, and appropriate educational services can be delivered in a less restrictive environment. NARC urges this committee to support a $66 million

appropriation for the Preschool Incentive Program for FY '81.

Under Title I of the Elementary and Secondary Education Act, Public Law 89-313, 224,000 handicapped children are currently being served in 6,900 centers or schools throughout the country. The allocation for FY '78 was $126.6 million.

Since the inception of P.L. 89-313, changes in service delivery to handicapped individuals have taken place to reflect the movement toward appropriate education in the least restrictive environment. For example, in 1966, 97 percent of the children receiving services under 313 were served in residential schools, typically state institutions for retarded persons. In 1978, 40 percent of the children receiving services were served in residential schools, while 49 percent were served in state supported day programs and 8 percent were served through "follow-along" provisions in public school or contractual settings.

NARC urges the Subcommittee to review the recent legislative history of P.L. 89-313, in view of the present funding crisis.

During the deliberations preceeding P.L. 95-561, last year's Amendments to the Education of the Handicapped Act, this committee recognized that P.L. 89-313 and P.L. 94-142 were complimentary programs. At that time it was agreed that P.L. 89-313 appropriations would remain intact until such time as the fiscal impact of P.L. 94-142 could be determined. P.L. 94-142, which was not fully funded last year, and again faces lack of full federal funding, cannot possibly assume the additonal burden of P.L. 89-313 mandates.

The committee's decision to continue the P.L. 89-313 program last year is even more valid today, given the steady decline of the Administration's support for the basic P.L. 94-142 program. We again urge the committee to reiterate its support for P.L. 89-313 funding, until the funding level for P.L. 94-142 reaches its full funding allocation for any given year.

Despite having painted a dark picture of the efforts of implementation of P.L. 94-142 in Georgia, we are optimistic and believe strongly in the potential for rapid development of quality special education of handicapped children across the state. Despite the problems with procedural safeguards, coordination of services, inadequate related services and placement options, low or nonexistent education standards for severely retarded children, and the development of individual education plans based on available resources rather than on the needs of children, we believe that the attitudes of parents, teachers and administrators are changing across the state. The investment of effort by all parties is tremendous. Without a partnership with the federal government, many state departments of education and local educational agencies will not and cannot on their own take the initiative to provide special education and related services to all handicapped children based upon their needs. If the federal government begins to go back on the fiscal promises of the Act, it will only be a matter of time before local and state systems become lax in their implementation efforts and shrug their responsibilities. Without the full participation of the federal government,

necessary educational services may not be delivered. This will result in numerous costly court cases and the great potential for the waste of additional lives through innappropriate institutionalization.

A quote from this committee's report last year when it extended the Elementary and Secondary Education Act beautifully addresses this concern. It reads, "The committee believes that good education programs are an investment rather than an expenditure. The human and fiscal returns from the Federal investment in education programs for handicapped children are high. Not only does the individual handicapped child maximize his potential and therefore his present and future independence; but society benefits both from his contribution and from the absence of the higher cost of dependency-oriented welfare services."

As administrators, teachers and parents become more knowledgeable about the law, develop programs responsive to the needs of each child and have the assurance of continued full federal funding, the challenge of full implementation of this law can be realized.

For the first time in our history, each handicapped child will receive the benefits of an appropriate education--an education designed to meet the needs of each child, which will assist the child to grow into a more capable and productive member of society. This committee has led the way throughout the development and implementation of this important legislation. Strong leadership will be needed to continue the fight to assure appropriate funding. Our organization has high expectations that this committee will maintain its leadership role.

Mr. MORRIS. Also testifying on behalf of the National Association for Retarded Citizens will be Mr. Donald Trites, the parent of a handicapped child, a professor at Emory University in the field of educational policy, and also president of the board of directors of our State protection and advocacy system.

What I would like to do is give a brief outline of the status of implementation of Public Law 94–142 in the State of Georgia. I feel that some of the situations and experiences within the State of Georgia are not atypical, but reflect, in fact, problems faced by parents and children who are handicapped across the country.

I think that before I begin with some of our experiences, I might say that Public Law 94–142 brought new hope to thousands of parents across the State of Georgia, who had been struggling some 8 years with our own special education mandate. The promise of a free, appropriate public education for all handicapped children in the least restrictive environment, and in turn a partnership with the Federal Government with State department of education and local education agencies was a real boost, a real shot in the arm for the many parents across the State who had struggled for so long, and finally saw that with this type of partnership, the reality of implementation would mean, in turn, some day all handicapped children within the State of Georgia would receive a free, appropriate public education.

Despite the promises of the legislation, today in Georgia over 14,000 children remain on waiting lists for evaluation. For the most part, development of individualized educational programs continues in too many systems to be based upon available resources, and not the individualized needs of handicapped children.

I think that too often across the State, many systems are afraid to admit that they do not have the available resources, both in terms of costs involved as well as the fear of noncompliance, and the result, unfortunately, is that handicapped children remain unserved.

The least restrictive environment component, a principle of the law, is one that guarantees interaction between handicapped and nonhandicapped children. Yet despite this principle of the least restrictive environment, over 1,000 mentally retarded children in the State of Georgia continue to be served in segregated centers run by the division of mental health and mental retardation, without education standards, and without certified education teachers.

I believe that in reading the intent of the legislation, and looking through the committee hearing reports, it is quite clear that the intent of Congress was to remove the battles in the courts that had taken place to secure a right for education and begin to establish that as a matter of fact.

Unfortunately, I believe that across the country as well as within the State of Georgia, each week controversies that are not resolved at the local level, are not resolved through the due process procedures in the procedural safeguards section of the law, are now moving into the courts at a more rapid rate than ever before.

Despite the procedural safeguards section of the act, no parent has ever won a due process hearing in Georgia over the last 2 years. Just recently, in October 1978, regional hearing examiners did render decisions in favor of parents on two occasions. Immediately, within a week, in both instances, local departments of education had taken the parents to court rather than comply with the hearing decision.

I believe that it is important for this committee to clarify the legislative intent as to who can serve as an independent hearing examiner. As long as local boards of education or State boards of education serve in a role as hearing examiners, or reviewers of the hearing decision, parents will not be given adequate opportunity to express their viewpoints and advocate on behalf of their children before independent hearing examiners who are not in a conflict of interest, perhaps because the very personnel who made the decisions concerning the handicapped children work for that system, or perhaps because in many cases to comply with the hearing decision, or to comply with additional services for handicapped children again is going to raise the cost of the services.

I think in the area of implementation or monitoring, the Bureau of Education has been slow and inconsistent. The Bureau of Education for the Handicapped now needs to move from review and approval of State plans to examination of actual practices, procedures, and programs in the States and local education agencies. In addition, upon identification of problems, swift intervention should occur.

I believe that the State department of education could serve more as a leader in assisting local school systems, ultimately securing adequate appropriate public education for handicapped children.

Whether the problems in Georgia be those with the least restrictive environment principles, or the development of IEP's based upon available resources rather than needs, or thousands of children who remain on waiting lists for evaluation, I don't want you to feel that parents of handicapped children across the State of Georgia are disappointed, or in any way feel that the intent and the promises of Public Law 94–142 are not going to be followed in our State.

In fact, I only illustrate the problems to say to you that we are just beginning. The investment of dollars in Public Law 94–142 is just beginning, and that the only way the handicapped children will some day not have to battle, as Senator Berman mentioned, to secure an appropriate public education, the only way that this is going to occur is with the partnership that has started between the Federal Government and State and local systems to continue, and that that continue the full funding at the authorization level in 1980 and 1981 fiscal years.

I believe that parents across the State of Georgia are optimistic. I believe that tremendous effort has been exerted at both the State level, and local educational agency level. I believe that parents who often at times have been perceived in an adversarial role in making suggestions for altering or making comments that alter the recommendations of the school system personnel, I believe that that adversarial relationship will become a partnership in time as all parties concerned know more about the law, gain a greater understanding of its intent, and continue the partnership that has begun.

I believe, finally, Public Law 94–142 will accomplish what our State educational mandates have been unable to, and that is to secure free appropriate education for all handicapped children. The attitudes of people are changing, and I believe that the leadership role that this committee has had in the development of this act needs to continue, and I hope will continue in the fight for full funding at the authorization levels in the coming years.

Thank you.

Mr. SIMON. Thank you, Mr. Morris.
Mr. Trites?

STATEMENT OF DONALD TRITES, PRESIDENT, BOARD OF DIRECTORS, GEORGIA ADVOCACY OFFICE, INC.

Mr. TRITES. The thrust of Public Law 94–142 is clearly to provide a free, appropriate education in the least restrictive environment. In our formal statement, and in the other formal statements that we have heard today, we have heard a great deal about the global funding pictures. I think that those are particularly important, but what may be lost in describing those global funding patterns are the individual lives that are at stake when these kinds of decisions are made.

My own professional involvement in this area has been significantly supplemented by a number of things. My involvement with my own daughter, and her growth, and her education, and a second child who we are hopefully going to have in foster care soon, and a considerable amount of work in the last year in a volunteer capacity, working with parents of handicapped children in attempting to secure an adequate program under Public Law 94–142.

I would like to take just a few moments to describe three individual situations which I think represent why full funding is so important.

First let me begin with a child that I will call Martha. Martha is a child who has demonstrated a capacity to read, to write, despite the fact that at age 13 she has never spent a moment in a public school. In fact, she has never spent a moment, really, in an educational program that was appropriate to her.

She is brought each day into a training center of the sort that Michael described, and placed into a crib, where she spends her entire day. She has no IEP. She has no education really worth noting, although the staff—this is a center designed for preschool children—do try occassionally to get by and work with her during the day.

Why is Martha there? The local school system has no program for severely physically disabled children, nor do they have presently any plans to develop such programs. No school officials nor local volunteers are adequately trained to help develop such programs, or to help the parent overcome the great fear that Martha may lose her life if she attends a more normalized school setting.

What would the funding do to assist this situation?

First, and probably most important, it would result in, I hope, adequate training for the public school teachers and public school officials to develop such programs. It would enable them, then, to have programs for children who are seriously, physically disabled. Second, it might allow the training of people in the community to work more directly with parents in helping them to understand why such education is appropriate for their children.

My own child, who is a 13-year-old girl, given the fact that I have been extensively involved in this area of activity, and this was known, it was something of a surprise to me to come in for what had been billed as some kind of an informal meeting, and it turned out to be our IEP meeting.

There was no notice, and the meeting was scheduled at a time when regular classroom teachers could not attend. That is, at 8:30 in the

morning. At my request, we rescheduled it, and the second meeting received, of course, no written notice either.

My perception of the difficulties in that meeting was that classroom teachers were hostile, or fearful about what it would mean to have a child with serious handicaps in their room. The special education teacher who was chairing the session, who was in many respects quite capable, had great difficulty in translating Sarah's needs to the regular classroom teachers. They all had considerable difficulty involving us as parents.

What would funding do?

I believe that what is desperately needed in that situation was significant inservice education, education that would allow special educators for the first time to understand something of the nature of the changing role in terms of dealing with regular classroom teachers. Regular classroom teachers need to understand the nature of the law, understand a great deal more of working with handicapped children, and finally, again, that parents themselves, even the ones that have a great deal of experience in such matters, need to receive some support and encouragement to help their understanding of how to proceed.

I would like to end with a quite positive case. Douglas is a boy who is age 12, and he had spent 5 years in segregated residential settings, where he was observed to be fairly withdrawn, and at times had some rather serious behavior problems.

Starting last August, and working through the beginning of the school year, I met a great many times with the parents and the various school officials in an attempt to try to work out a program for Douglas in his local public school.

There were many, many problems to overcome. The parents did not understand the law. They did not understand their right under the law. They were extremely fearful of what it would mean to change Douglas' program.

When they finally decided that they would take the chance, they had to make extensive plans for Douglas to return home.

The school system which was doing quite a good job of developing special education programs, had to bend and bend, and bend again, in order to help the parents, and to help Douglas move into the school setting.

Douglas is now at home, and in school. It seems to me that the benefits that have accrued to Douglas and his family are really worth noting. The mother said to me at the time that Douglas came home: "I have all the hopes and fears of an expectant mother." I must say that this is a hope that has been borne out.

The school officials are delighted with Douglas. More and more he is participating in the regular life of the school, yet he is receiving all the needed services. But the real beneficiary, it seems to me, is Douglas himself. He has become, in my observation of him, a happy, outgoing child. He is really involved with the teachers and students in the school. Most of all, it seems to me, he values his regained home.

The latter example, it seems to me, points to what can happen. Those possibilities came about through a great deal of sustained hard work by sensitive and well-trained staff, a staff that works hard at seriously involving parents in all aspects of the programs.

It is one of the very few systems in Georgia, in my judgment, that has made a serious commitment to summer programs, and to working with other community agencies and advocacy organizations.

If we cut back the expected funding levels, and if the local citizens in that county should take that as a sign that the commitment to Public Law 94–142 is weak at the Federal level, then we can expect that the quality of services in that county will begin to decline. But more important, we will not be able to extend that model of excellence throughout the State of Georgia.

Thank you.

Mr. SIMON. Thank you, Mr. Trites.

Mrs. Kendrick.

STATEMENT OF SUZANNE KENDRICK, EXECUTIVE DIRECTOR, UNITED CEREBRAL PALSY ASSOCIATION OF WISCONSIN

Mrs. KENDRICK. I am Sue Kendrick of Madison, Wis. I speak to you today as a parent, and I am also the executive director of the United Cerebral Palsy Association of Wisconsin. I have submitted a statement in print.

Mr. SIMON. Your statement will be entered in the record.

[Prepared statement submitted by Mrs. Kendrick follows:]

STATEMENT

RESPECTFULLY SUBMITTED TO THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY

AND VOCATIONAL EDUCATION AND THE

SUBCOMMITTEE ON SELECT EDUCATION OF THE

HOUSE COMMITTEE ON EDUCATION AND LABOR

ON

P.L. 94-142, "The Education of All Handicapped

Children Act."

On Behalf Of

United Cerebral Palsy Associations, Inc.
The Chester Arthur Building, Suite 141
425 "Eye" Street, N.W.
Washington, D.C. 20001

Witness: Suzanne Kendrick
Executive Director
UCPA of Wisconsin

March 27, 1979

INTRODUCTION

United Cerebral Palsy Associations, Inc. appreciates this opportunity to testify before the Subcommittee on Elementary, Secondary and Vocational Education and the Subcommittee on Select Education regarding the implementation of P.L. 94-142, "The Education of All Handicapped Children Act."

Our witness is Suzanne Kendrick, Executive Director of United Cerebral Palsy Associations of Wisconsin, and mother of a seventeen-year-old son disabled with cerebral palsy. Mrs. Kendrick, a registered occupational therapist, has served for over nine years on the Special Education Advisory Committee to the Madison public school system, and has been involved from beginning in drafting Chapter 115, the Wisconsin st te statute mandating education for all handicapped children.

My name is Suzanne Kendrick from Madison, Wisconsin, and I am appearing here today as a parent and as the Executive Director of United Cerebral Palsy of Wisconsin.

When I was invited to speak before these distinguished subcommittees, and it was explained that you were interested in hearing testimony from a parent on the success of P.L. 94-142, I pointed out that I was hardly the parent to do so, since this year our son's education program is in violation of the law that was created to insure his rights. Last fall he was placed back into a self-contained program and to date has been without the benefit of the recommendation of a multidisciplinary team (M-team) or an individual education plan , both elements mandated by P.L. 94-142.

However, after further discussion, it was decided that I should come and share my experiences, positive and negative, with the Subcommittees. I am pleased to do so in the hope that Congressional efforts will continue until P.L. 94-142 is fully implemented as it was intended and not as it is "interpreted" by teachers, administrators, and school boards.

As a volunteer, I have been actively involved for a number of years advocating changes in the Wisconsin services delivery system to become more responsive to the needs of individuals with disabilities and their families. With a small group of parents, I was able to influence the drafting of Chapter 115 of the Wisconsin Statues mandating the right to education of all handicapped children, enacted in August of 1973. This law served as a model for P.L. 94-142.

Our son Matthew, as a result of being born prematurely with a birth weight of less than 2 lbs., has cerebral palsy. Although he is only moderately involved physically, he is almost totally non-verbal and communicates in a variety of ways, including sign language and, as of a year ago, with a Canon communicator.

He has been attending the Madison public schools for twelve years by special arrangement with the Verona public schools (his home school district) because of his exceptional educational needs. In the fall of 1967, at the age of 5 years 9 months, Matthew entered the preprimary class of the orthopedic program, a self-contained program in a regular elementary school. His first three years were very positive, both academically and in terms of his social development. The next four years, however, were a near disaster both for Matthew and our entire family. In the fall of 1970, without our knowledge, Matthew was removed from the regular orthopedic program to a class for the multiply handicapped, a program we were only later to discover was for children who are moderately to severely retarded. Our son, whom we discovered could read at the age of three and whose first-grade teacher claimed was reading at the fifth-grade level,is not and never has been retarded. We later learned that the decision to place Matthew in the program was based on the fact that the assessing psychologist, who had never before tested a child with a disability, had labeled him mentally retarded.

During these four years expectations were so low that our son was forced to perform tasks far below his level of intellectual ability, resulting in boredom, short attention span, and disruptive behaviors which were interpreted as symptomatic of his mental retardation label rather than the school system's inappropriate programming.

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Our intensive efforts to develop an appropriate educational program for Matthew were continually rebuffed and we slowly watched him become a different child, the victim of a self-fulfilling prophecy.

During the 1973-74 school year, at our request a pediatrician specializing in learning problems and a consultant to the schools attempted to evaluate our son and his program. However the staff,insisting that Matt was happy and doing well, refused, or were unable, to provide the information data about Matt's performance essential to the evaluation. They did, however, impart a great deal of information about Matt's parents, particularly me, all based on assumption rather than fact, and all negative.

We were advised to seek a full, objective evaluation outside the school system and to read Matt's school record, which was described as massive and containing a great deal of negative comment about us, the parents. Our attempt to read our son's school record is not atypical of experiences of innumerable (and I suspect the majority of) parents throughout the country.

When I went to school and asked to read Matthew's record I was informed that it could only be read in the presence of a school psycologist, who would answer questions and interpret data. I was made an appointment. Three weeks later I sat down in the presence of Matt's teacher and principal (the psychologist had never received my messages) and was handed two brand-new manila folders. One was Matt's cumulative record of almost seven years of school containing fifteen pages, the other his confidential file of seven pages, which, according to public school policy, is never to be removed from the administration building. While it was immediately obvious that Matt's school record had been thoroughly purged, we had no way of knowing whether the purge was temporary or permanent.

Although there is a law granting parents access to their child's school records, my own experience as well as that of many other parents makes it increasingly obvious that the right of access, to records will not become a reality until the process for access is also mandated. As part of the mandated process I urge consideration of the following:

1. Parents should be able to have access to their child's records during reasonable hours when school office personnel are expected to be present. (Schools requiring appointments for parents to read records are usually buying time to remove those portions of the records they do not wish the parents to see.)

2. It must be assumed that parents and/or their advocates are perfectly capable of reading their child's records and of afterward making an appointmnet with the appropriate person or persons to answer any questions they may have. Requiring records to be read in the presence of a psychologist or other professional is a waste of taxpayers' money and professionals' time.

3. The schools must be required to keep no more than one record or file on each child. When two or more records are allowed, documents have a way of becoming "lost" or "misplaced" and therefore unavailable to parents or others interested in the child.

4. It must be required that all items placed in a child's record are sequentially numbered, with the first page of the subsequent document bearing the number following the number of the last page of the previous document, so that it is immediately obvious if any parts of a record have been removed.

Our efforts to obtain an objective evaluation of Matt from an agency independent of the Madison public schools failed. They had relied heavily on input from the staff at Matthew's school, who had succeeded in convincing them that the problem was not with Matthew but with his parents, primarily his mother.

Without consulting us they decided it was unnecessary to evaluate Matt and opted instead to serve as referees between us and the school, making it clear from the beginning that they considered the school staff right and us wrong. The final four-hour conference we had with this agency was without doubt the most devasting experience by far of any we had had as Matthew's parents.

The printed agenda for the conference, with the topics for discussion, provided proof that the school staff had sabotaged our efforts for an objective evaluation of Matthew's exceptional educational needs in the school program. When the agenda was subsequently presented to the Director of Specialized Educational Services of the Madison public schools, he immediately removed Matthew from the multiply handicapped program and placed him in another school for an evaluation. A multidisciplinary team was formed to evaluate Matthew, his records (now back to their original two-inch thickness in size) were impounded, and the multidisciplinary team directed to make no contact with the previous school's staff.

The recommendation and subsequent placement of Matt in a program for children with hearing impairments so that he could learn sign language for communication purposes proved to be very positive. Provided the opportunity, he successfully demonstrated his ability, and was mainstreamed into the fifth-grade level in math and science, although he had received no formal classroom experience in these areas beyond the first grade.

The following year (1975) Matthew entered middle school and showed significant improvement in his academic performance. The incredible damage to his self-image, resulting in inappropriate social behaviors, has been slower to heal, although there has been considerable improvement, especially last year. He has had increased integrated classroom experiences with his able-bodied peers during the last four years, and we believe that this experience, in addition to the approach of the staff, has played a significant role in these gains.

Last spring, in preparation for Matt's entrance into high school, he was evaluated by a multidisciplinary team as required by P.L. 94-142. The M-team was directed by staff from the Verona schools, but also included two staff persons from the school he was attending in Madison. The multidisciplinary team recommendations, signed by us on May 22, 1978, recommended that Matt be place in Madison's East High School in the learning disability program. The recommendation also provided for integration into regular classes, with tapes, special adapted materials, and tests available as needed, adapted physical education as needed, and adapted driver education.

Matthew visited East high School along with the other eighth graders and selected the courses he wished to take. His registration materials and records were forwarded to the school. He was looking forward, as were we, to his transition to high school.

On August 22, 1978, just five days prior to the first day of school we were notified that Matt would be accepted for placement only in a self-contained learning disability class at La Follette high school for assessment purposes We and the staff of the Verona schools made numerous contacts with administrators in Madison to determine the reason for this very late change in plans. As of today we have still not received a full and candid answer.

The original excuse was an "improperly constituted" M-team, but offers by Verona staff to correct the oversight were dismissed as inadequate. Although he had been in the Madison school system for twelve years Matt's records, we were told, contained no information on "how he functioned cognitively," and he required a full year of assessement. Further, the Madison public schools insisted that the program at LaFollette would be "better" for purposes of assessment and programing but refused to discuss the question of why programming at East would not be appropriate for Matthew, insisting that questions of staff competency were not relevant to the discussion.

Neither Wisconsin state law nor P.L. 94-142 provided for placement for purposes of assessment. Because of a minor illegality, an improperly constituted M-team, which could have been easily and quickly corrected, Matthew has been forced to spend three-fourths of his freshman year in high school in a high school placement which is illegal, which is ignoring the recommendations of the multidisciplinary team, and without an individualized education plan as required by law.

Both P.L. 94-142 and Chapter 115 of the Wisconsin Statutes provide parents with the right to appeal if they do not agree with the multidisciplinary team recommendations or the placement decision. However, the appellate process breaks down completely when the home school district contracts with another district to provide services and the district contracted with exercises the right to redo the M-team and/or alter the placement decision. Even if we were to appeal to Verona, it appears that Vernoa would be powerless to force the Madison public schools to make a placement at East High School.

The law must be corrected so that parents, in their effort to assure an appropriate education for their child as mandated in P.L. 94-142, do not lose their rights as we have. What has happened to Matt this year we thought was not supposed to be allowable under P.L. 94-142, nor were we supposed to be left powerless to do anything about it.

I have been an advocate for children and their parents many times, served on the Special Education Advisory Committee to the Madison public schools for nine years, was involved in developing Wisconsin's law on education for all handicapped children. I am aware of how the system works as well as how it is supposed to work, I am fully aware of my rights and my child's rights under the law, and yet all of this knowledge has proved absolutely useless. What has become all too apparent is that although you can change the laws, you can't always change those who implement them. While parents are putting a great deal of energy into securing an appropriate education for their children, far too many educators are putting an equal amount of energy into searching for loopholes and making arbitrary decisions for budget purposes. The law has been passed, but it is a long way from being implemented.

AFTERWARD

As part of a broader attempt to determine the impact of P.L. 94-142 on the educational opportunities and experiences of persons with disabilities, in June, 1978 United Cerebral Palsy Associations published a survey of our affiliates' experiences with implementation of the statute at state and local levels. That study indicates mixed success for the program, with specific problem areas identified with regard to the provision of related services, parental input into development of the individualized education plan, the absence of adequate service coordination between public and private educational providers, and a lack of resources. A copy of the final report has been appended to this testimony for the information and action of the Subcommittees.

Word from Washington

Analysis

Volume Seven Number Five

UCPA AFFILIATES REPORT IMPLEMENTATION EXPERIENCES WITH P.L. 94-142: THE "EDUCATION FOR ALL HANDICAPPED CHILDREN ACT"

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In Depth Resource Material
Prepared For Affiliates Of
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BY

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June, 1978

PURPOSE OF PAPER

The purpose of this paper is to alert the Bureau of Education for the Handicapped (BEH) of the Department of Health, Education, and Welfare (DHEW) and leading advocate organizations to P.L. 94-142, the "Education For All Handicapped Children Act," implementation issues and difficulties prior to their visiting a state.

METHODOLOGY

In the fall of 1977 the UCPA Governmental Activities Office wrote 20 state UCPA affiliates which have demonstrated advocacy experience with P.L. 94-142 and requested their participation in an "early warning system" by preparing state situation reports. Of the 20, eleven agreed to participate and seven actually prepared written reports.

In reporting P.L. 94-142 implementation experiences in the January, 1978 Word From Washington, mention was made of the state situation paper project. As a result two UCPA affiliates wrote the UCPA Washington office.

At its November 2, 1977 meeting the UCPA National Governmental Activities Committee decided to launch an outreach program to have affiliates designate a volunteer liaison to UCPA's governmental activities program. The six District Representatives on the Committee were given responsibility for this initiative. It was suggested that a detailed questionnaire prepared by the UCPA Washington office on P.L. 94-142 be utilized to determine the level of interest in and knowledge by affiliates of this important public policy issue. Gerald Varty, Western District Representative, disseminated the questionnaire to all UCPA affiliates in his district. Dona Caswell, Midwest District Representative, forwarded the questionnaire to the UCPA state affiliates in her district. Sixteen questionnaires were returned to the UCPA Washington office.

Lastly, this paper has utilized the findings of a UCPA of California Developmental Disabilities Project Of National Significance report on the needs of non-retarded developmentally disabled persons.

Appendix One lists all UCPA affiliates participating with the UCPA Governmental Activities Office in preparation of this paper.

MAJOR FINDINGS

- Focus On Adult Needs

A number of UCPA affiliates (not listed in appendix) responded by stating that their programs were solely concerned with the needs of adults with disabilities. These agencies noted that with the emergence of public sector responsibility for education, and faced with increasing numbers of severely disabled adults in their communities, affiliate program services have evolved from direct provision of education and related services for school-age children to an emphasis on adults.

It is commendable that these agencies, responding to public initiatives, have closed their private specialized schools and assumed responsibilities in other areas. At the same time this trend is unfortunate in one respect, because community agencies with 20 to 30 years of experience in educating handicapped children have not continued to be involved in assisting and monitoring public programs for school-aged handicapped children. The wealth of experience and expertise of these agencies cannot easily be replaced.

- Related Services

In reviewing P.L. 94-142 implementation to date, failure to provide related services was clearly the foremost problem cited by participating affiliates. The Federal government needs to clarify the educational sector's responsibilities for the provision of related services and initiate interagency agreements at the Federal level as an example to local and state governments.

- Individual Education Plan Development

Many parents felt that the IEP did not adequately specify "appropriate" services for their children's needs, many IEP's seemed to be mass produced, and frequently parents were not informed of their rights nor involved in IEP development. A major component of Federal and state monitoring efforts should be detailed attention to the IEP.

- Coordination With And Utilization Of Private Agency Resources

Many UCPA affiliates reported that the public sector has generally ignored the role of private education providers and failed to coordinate and utilize private education resources.

- Funding Situations

Lack of resources and required funding were cited by UCPA affiliates all over the nation as a major problem. If the goals and objectives of P.L. 94-142 are to ever be achieved, a strong and dynamic Federal leadership role, backed by full funding levels, must be continually initiated.

THE QUESTION OF RELATED SERVICES

P.L. 94-142 defines special education as specifically designed instruction. Related services are those services required to assist a child to benefit from special education. The Act describes related services as developmental, corrective, and other supportive services including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services. The term "related services" includes "transportation" as well as those listed in the Act. The term also includes "school health services, social work services in schools, and parent counseling and training."

The regulations define "medical services" as "services provided by a licensed physician to determine a child's medically related handicapping condition which results in the child's need for special education and related services." "School health services" means services provided by a qualified school nurse or other qualified person."

Additionally, the regulations require that "nonacademic and extracurricular services and activities" are provided in order to afford handicapped children an

equal opportunity for participation in those services and activities. These services "may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies which provide assistance to handicapped persons, and employment of students...."

The scope of related services presents a serious problem of financing. The school system is responsible for seeing that related services are provided, but is not necessarily responsible for paying for such services. This means that other financing agencies - such as Crippled Children Services and Medicaid - must develop cooperate financing arrangements with the school system. Additionally, a clear system of responsibility for service provision along with the arrangement for payment of such services must be developed.

The regulations address the problem of method of payment by stating that the state is to use whatever state, local, Federal, and private sources of support are available in the state to implement P.L. 94-142. The regs encourage joint agreements between agencies. The regs declare that "nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a handicapped child."

Though related services includes medical services, there are very real restrictions in the Act on such services ("for diagnostic and evaluation purposes only"). The UCPA Collaborative Infant project has documented that in the education of the severely disabled child, medically related services must be included in the development and implementation of the IEP. Even if interagency financial linkages are developed, the medical services defined as "related services" are much too narrow.

- The Problem Of Transportation

Transportation is a related service which most responding states and localities provide. However, transportation services are frequently inadequate and have harmful effects on the child.

In Maryland, for example, there are too few vehicles, necessitating multiple stops resulting in physical and emotional strain on children, drivers, and driver assistants.

Kansas has a state law that no child may remain on a bus for longer than one hour each school trip without parental consent. Because the state is largely rural, with schools spread out over considerable distances, the law is circumvented by transfering children to two or three different buses enroute to school, a practice resulting in trips substantially in excess of the one-hour rule.

In Missouri transportation is almost nonexistent for older handicapped children. Transportation problems are also prevalent in California and Washington. In San Mateo and Santa Clara counties (CA) transportation is generally not available for children placed in private programs, while in Sonoma County (CA) transportation services are largely restricted to private school children only.

The UCPA of California study indicated that transportation to therapy for children mainstreamed into regular classrooms is a major concern. The report found that generally it is more costly for therapists to travel to individual schools than to transport children to centralized locations for therapy. The report concluded: "Unless school districts are able to provide transportation to therapy, parents commented that they would opt for special schools."

• Other Related Service Problems

Alabama's problems with related services are rooted in the vagueness of P.L. 94-142. No consensus has been reached regarding who pays for related services that may be identified as needed in order for a given child to benefit from special education. Related services are generally not available in Illinois.

Determination of what actually are related services is arguable in Seattle, with inadequate or nonexistent state matching for physical therapy, occupational therapy and speech therapy in both Seattle and Olympia, Washington. Health services are also denied in Washington.

Occupational therapy is generally not provided in San Mateo and Santa Clara counties (CA). In most of California physical therapy is frequently restricted to private schools only. Speech therapy is not offered in San Mateo, Santa Clara, and Sonoma counties as well as in Oakland and Los Angeles. Recreation is denied in Sonoma County and child counseling and parent counseling and training is unavailable in Los Angeles.

Reasons cited by school authorities for denying children related services include:

(1) Insufficient funds: Sonoma, San Mateo, and Santa Clara counties, California and Arizona.

(2) Services not basic to education: Seattle, WA.

(3) Occupational therapy not a school responsibility: San Mateo County, CA.

(4) Lack of speech therapists: San Mateo County, CA.

(5) Therapies only available to families meeting Crippled Childrens Services income eligibility tests: Los Angeles, CA.

• Some Signs Of Progress

Some jurisdictions within some states do offer some related services under certain circumstances.

(1) Transportation: CA., HA., WA., AR., OH., IL.

(2) Speech Therapy: CA., HA., WA., AR., OH., IL.

(3) Psychological Services: CA., HA., WA., OH., IL.

(4) Physical Therapy: CA., HA., WA., AR., OH., IL.

(5) Occupational Therapy: CA., HA., WA., AR., IL.

(6) Recreation Services: CA., WA., AR., IL.

(7) Health Services: CA., HA., AR., OH., IL.

(8) Child Counseling: CA., OH., IL.

(9) Parent Counseling and Training: CA., HA., WA., OH., IL.

THE INDIVIDUAL EDUCATION PLAN

The primary mechanism for assuring appropriate and quality education of children with disabilities is the Individual Education Plan (IEP). BEH regulations require the IEP to be developed by the child's teacher, one or both of the child's parents, a representative of the public agency, and "other individuals at the discretion of the parent or agency."

The regulations do not require an agency, teacher, or other person "to be held accountable" if a child does not achieve the growth projected in the plan. However, "good faith efforts" by agencies and teachers in assisting children to meet plan objectives are required.

- Determination Of An Appropriate Education

The IEP is to determine "appropriate education;" but P.L. 94-142 does not define the term. Basically, the concept is viewed as whether or not the child receives services specified in the IEP, which in turn is dependent upon the validity of the plan itself.

If a child receives a free, public education (i.e., publicly run and supported) in the least restrictive environment necessary to meet his/her needs and in accordance with the services specified in his IEP, he/she will be receiving an appropriate education. A difficult question to answer with regard to a more specific definition is whether or not "appropriate" will eventually be defined as including output (achievement) in addition to input (services, adequately trained teachers, and so forth). Will "appropriate" come to mean that a child must in fact achieve all, or some, of the goals and objectives specified in his IEP?

Disagreement between parents and professionals over what constitutes an appropriate education was identified in California and Kansas.

The UCPA of California report concluded that of the 159 persons interviewed, 27% of those in public school programs were dissatisfied. The primary problems were lack of teacher special skills in working with persons with disabilities (29%), segregation in programs limited to handicapped children (29%), and boredom as a consequence of services inappropriate to personal needs (13%). Other California affiliates stated that instructional objectives generally were not specific.

- Parental Involvement

UCPA affiliates in San Mateo and Sonoma Counties, California; Kansas City, Missouri; Ohio; and Alabama reported that parents generally were not informed of their rights and thus lacked awareness that they were supposed to be involved in IEP development. When asked about their children's IEP, many parents never heard of it.

In addition to the failure of school officials adequately to inform parents of their rights, in Alabama some parents simply do not wish to participate in the development of the IEP and are content to have the professionals develop the plan for their signature. The Alabama state situation report concluded: "parents may be awed by a meeting where they are supposed to participate on equal terms with professionals in the development of the IEP and be too self-conscious or otherwise inhibited to participate openly in the meeting."

In Arizona parents were routinely instructed to sign the IEP without prior involvement.

• Mass-Produced IEPs

Maryland identified the enormous paperwork problems associated with IEPs for every child. An effort is underway to develop a unified paper network; preliminary results are complaints that uniformity means too much or too little information being required.

California and Arizona affiliates stated that the format of the plan led to its mass production without regard to individual need. In Arizona all children in the same class had the same music therapy objectives stated as "he/she will achieve the normal standard for his/her grade level."

• Other IEP Problems

(1) No IEPs: Sonoma County, CA.; Kansas City, Missouri; and Athens, Ohio.

(2) Confidentiality not ensured: California and New York.

(3) Nondisciminatory testing and evaluation procedures not ensured: New York.

(4) Inadequate labelling and capability to diagnose: California.

(5) Schedules and locations of planning process inadequate: Seattle, Washington.

(6) Inadequate multidisciplinary assessment: Athens, Ohio.

(7) Failure to assist children to develop assertiveness in new situations: California.

THE DUE PROCESS HEARING

P.L. 94-142 requires every state to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education. These safeguards include examination of records; protection of basic rights; written prior notice concerning identification, evaluation, and placement; native language considerations; opportunities to present complaints; and impartial due process hearings.

Families associated with UCPA programs in Arizona; Los Angeles, Palo Alto, and Oakland, California; and Seattle, Washington have resorted to a due process hearing to protect their child's rights and interests. UCPA in Seattle acted as the advocate for the family in the hearing process, while in Arizona the State Protection and Advocacy System and private attorneys represent the parents. Most of these appeals concerned mainstreaming decisions and were decided more in favor of the parents than the school districts.

Failure of the due process system is a major problem in Illinois. Despite the P.L. 94-142 requirements, Illinois state law specifies that a state mediator's (state superintendent of schools) decision is final. Due process hearings are not being

implemented in Kansas City, Missouri and in New York state.

Ohio requires an administrative review process prior to the due process hearing. While hundreds of parents have participated in the administrative review process, relatively few have been involved in due process hearings. Either parents are not adequately informed or they are intimidated at the administrative level for complaints persist.

In Alabama due process hearings are frequently too complex, cumbersome, and potentially time-consuming and expensive. The adversarial nature of the hearing inhibits the parent. Many parents fear "retribution" by school officials.

A question raised repeatedly is, what provisions are to be made for the child pending a hearing of complaints? This is important because of the considerable delays with hearings. A related question concerns payment of the hearing process. Parents have the right to be advised by counsel, to present evidence, to cross examine, to call witnesses, and receive written or verbatim transcripts of procedures. Who pays?

Regarding the child's status during hearing proceedings, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement. If the child is in no educational program and is applying for initial admission to a program, the child - with the consent of the parents - must be placed in a public school program while the hearing proceeds.

The regulations require that the hearing be completed and a final decision reached not later than 45 days after the receipt of a request for a hearing, and that the state education agency complete its review no later than 30 days after receipt of a review request.

LEAST RESTRICTIVE ENVIRONMENT AND PRIVATE SCHOOL PLACEMENTS

P.L. 94-142 attempts to assure that all handicapped children have available to them free and appropriate public education which is designed to meet their unique needs in the "least restrictive environment."

The UCPA of California study found that 92% of the children assessed were participating in education programs. Of these, 73% were in special education classes within public schools; however, only 8% were reported to be attending regular classes within the public schools.

Children associated with UCPA programs in Central Arizona; Sacramento, San Francisco, Los Angeles, Santa Clara County, and San Mateo County, California; Baltimore, Maryland; Wenatchee, Washington; and Bangor, Maine have been placed in private education programs. Three of these - Baltimore, Wenatchee, and Bangor - are UCPA-operated programs. In Los Angeles, these placements have been made without the approval of the school system. In Los Angeles, San Francisco, and Arizona these placements have also been made without the approval of the parent.

Financial reimbursement has been a serious problem in San Francisco, Los Angeles, and Illinois. In Illinois, parents have been required to pay part of the education costs because of a state law limiting annual reimbursement for private school students to an arbitrary $2,500 level.

Large student population changes, required by the least restrictive environment initiative, have created difficult child and staff adjustment problems in Maryland. In California many professionals interviewed felt mainstreaming might be too strenuous for certain children, "noting that segregation gives many students the opportunity to excel and feel comfortable." The least restrictive environment requirement is frequently ignored in New York.

It is important to recall the private school placement provisions of the BEH regulations:

(1) Private school placements are only permitted if the least restrictive alternative requirement is followed and only if specified in the child's IEP. All procedural safeguards must be followed.

(2) All 94-142 Federal funds and title to property acquired with those funds must be controlled by the state or local public education agency.

(3) Residential school placements required for educational purposes, "including non-medical care and room and board," must be made at no cost to the parents of the child.

(4) Even if a child's IEP requires private school placement and even if the private school implements a child's IEP, the state and local public education agency remain responsible for IEP implementation.

(5) All children in private schools are to receive services at no cost to the parent.

(6) Public education agencies shall monitor compliance through written reports, on-site visits, standards development, and parent questionnaires.

(7) If a handicapped child has available a free appropriate, public education and the parents choose to place the child in a private school, the public agency is not required to pay for the child's education. Disagreements over placement between public agency and parent are to be settled by a due process hearing.

(8) Provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private schools. The question of appropriate financial reimbursement to the private school will be continually debated.

(9) All private school placements must be determined annually, be based on the child's IEP, and be as close to the child's home as possible.

Maine is attempting to phase out UCPA school programs. A coalition of private school administrators and public school superintendents has been established to negotiate the timelines and other arrangements. Attempts are being made to regionalize special education, but the feasibility of such an approach is becoming questionable.

COORDINATION WITH THE PRIVATE SECTOR

In New York the public sector has generally ignored the role of private education providers and failed to coordinate and utilize private education resources.

In Maine several examples of unilateral planning by school superintendents without consulting with private education programs were documented. In Kansas City, Missouri there has been little parent-teacher-administrator contact.

In Maryland private agencies are increasingly being viewed as "middle men" for the deinstitutionalization of persons prior to their entry into public schools, but coordination between providers and funding agencies has a long way to go.

The concern of private agencies in these states, as well as in Ohio, is with quality of service - a fear that in attempting to serve large numbers of previously unserved children public schools are sacrificing quality of service.

PUBLIC INVOLVEMENT

As outlined in the legislation, the consumer is anyone ranging from a handicapped child to a member of the general public who wishes to comment on the State Plan. Opportunities for participation under this legislation are:

(1) Opportunity for the parent and the child, if appropriate, to participate in writing the Individualized Education Plan;

(2) State Plan requirement for procedures for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children;

(3) State Plan requirement for public hearings, adequate notice of hearings, and opportunity for comment by the general public concerning the adoption of policies, programs and procedures involved in educating handicapped children and meeting the mandates of the law;

(4) Appointment to an advisory panel by the Governor to advise the Governor on (a) unmet needs; (b) rules or regulations regarding the education of exceptional children; (c) procedures for distributing the funds from the State Education Agency to the Local Education Agencies; (d) assistance in developing and reporting any data which the Commissioner of Education may require during his evaluation of the implementation of the law in that state;

(5) Opportunity to review all documents concerning Local Education Agency applications which are sent to the State Education Agency;

(6) Opportunity to peruse all evaluations and reports sent by the LEA to the SEA regarding the educational achievement of handicapped children;

(7) Opportunity to peruse a notice by the commissioner that he will withhold funds from a state due to failure on the part of that state to comply with eligibility or State Plan requirements; and

(8) Opportunity to review petitions filed in the Courts about such action.

Consumer involvement under P.L. 94-142 has the potential for markedly increasing the number of informed, involved volunteers. The inclusion of parents, as well as children themselves on the team responsible for the development and implementation of Individualized Education Plans provides a vehicle for increased consumer knowledge. Increased consumer knowledge will come from responsible interaction between professionals and parents who have not previously been involved in the education of their children. Unfortunately the states have not adequately involved the public in Maine, New York, and California. Illinois refuses to appoint advisory councils.

STATE RESPONSIBILITIES

P.L. 94-142 requires every state to have in effect a right to education policy and a plan to assure that the policy will be implemented. The requirements of the law apply even if funds are not appropriated according to formula. The law is not contingent upon funds being appropriated at a certain level.

The requirement of a free and appropriate public education does not apply to children ages 3, 4, 5, 18, 19, 20 and 21 if the application of the requirement would be inconsistent with state law or practice respecting public education within those age groups in the state. Implementation of such a provision will be controversial - could a state currently serving 40% of its preschool children claim that practice prevents them from serving all preschool children?

The regulations clarify the exception related to inconsistency with state law or practice. If the state provides education to children in any disability category in any of the age groups, services must be available to all children with disabilities. If the state provides education to non-handicapped children in any of the age groups, services must be provided to "at least a proportionate number of handicapped children of the same age." If a state provides education to 50% or more of its handicapped children, then all handicapped children of the same age must receive such education?

Control of education is a primary area of controversy, pitting Federal guarantees to prohibit exclusions and discrimination against traditional state and local responsibilities to provide education. P.L. 94-142 charges the state education agency with the responsibility of ensuring that the provisions of the law are met, but their only real control over local education agencies is the withholding of funds. A number of states have refused to withhold funds to noncomplying school districts, California, Alabama, and Missouri among them. The interests of parents and children are frequently compromised because of the separation of authority for implementation.

FUNDING SUFFICIENCY

Federal appropriations for aid to states under P.L. 94-142 and preceding Federal education statutes are as follows:

FY 1967 - $2.5 million
FY 1968 - $15 million
FY 1969 - $29.250 million
FY 1970 - $29.190 million
FY 1971 - $34 million
FY 1972 - $37.5 million
FY 1973 - $37.5 million
FY 1974 - $47.5 million
FY 1975 - $47.5 million

P.L. 94-142 BEGINS

FY 1976 - $200 million
FY 1977 - $315 million
FY 1978 - $465 million
FY 1979 - Administration Request: $804 million
Full Funding Level: $1.2 billion

P.L. 94-142 authorizes "such sums as may be necessary" determined by multiplying the number of handicapped children served by average per pupil expenditure by an arbitrary percentage. The percentage is 5% in 1977, 10% in 1978, 20% in 1979, and 40% in 1980 and thereafter. The formula is:

NAE (national average expenditure per pupil)	X	% (rising percentage per year)	X	NHC (number of handicapped children)	=	SF (amount of Federal funds allocated to the state for the year)

Total national expenditure for education of children with disabilities in FY 1975 was $4.8 billion and for FY 1978 a projected estimate of $9.3 billion. The Federal effort has yet to be substantial.

In a February 17, 1977 letter to Congress, the National Governor's Conference, the Education Commission of the States, the National Conference of State Legislators, the Council of Chief State School Officers, and the National Association of State Boards of Education declared that P.L. 94-142 places "unprecedented financial and legal obligations on the states" with a timetable which many states "will find difficult, if not impossible, to meet." Citing financial difficulties, the coalition recommended deletion of individual education plans, due process hearings, and many other procedural safeguards specified in the act.

Lack of resources and required funding have been cited as major problems in Illinois; Seattle, Washington; California, particularly in Los Angeles as an excuse for not mainstreaming; Missouri; Maryland and Alabama. Funding strains have motivated increased special interest group activity in public policy development, particularly unions, teachers, and providers of service.

P.L. 94-142 seems to place no upper limit on the services to be provided to each handicapped child at public expense. The Alabama state situation report concludes:

"If, in the development of the IEP, the local school authorities are aware that they must pay for all services that they identify as being needed by a given child, there may be a tendency simply not to identify many related services actually needed by the child. Many parents simply are not in a position to know exactly what services their child needs and must rely on the findings of trained professionals."

PRESCHOOL INCENTIVES

P.L. 94-142 authorized Federal financial assistance to state education agencies for the implementation of statewide plans for preschool and early education for children with disabilities and the acceleration of special services to these children. In order to receive the funds, the plan must be statewide and include as a minimum all children with disabilities ages three to five.

With limited resources and extensive mandates for the school age population and with a comprehensive approach required in order to receive funds, it seems unlikely that many states will take advantage of the incentive immediately. Additionally, the 10% disabled child enrollment required in Headstart and day care services financed under Titles IV B and XX of the Social Security Act have not been linked to the preschool incentive program.

The Preschool Incentive program uses the following funding formula:

$300	X	NHC (number of handicapped children ages 3-5)	=	PIGF (preschool incentive grant funds to the states)

In Kentucky the state currently financially supports private preschool programs such as the one operated by UCPA in Ashland. With the financial requirements of P.L. 94-142, Kentucky is rescinding all preschool funds. Wenatchee, Washington is refusing to implement the preschool program.

Kansas is also neglecting current state law for preschoolers because of P.L. 94-142 mandates. There are fights over where responsibility for such programs lie - with public education or social services developmental day care. Furthermore, there is little communication and coordination between these state agencies.

DETERMINING EQUAL TREATMENT

In Alabama debate continues over whether or not P.L. 94-142 goes further than guaranteeing equal treatment. As the state situation report speculates: "It is probable that the quality of education provided non-handicapped children could be greatly enhanced by such practices as IEP, smaller classes, procedural safeguards, and increased funds." An assumption is that non-handicapped children may not receive the quality of service that handicapped children receive. Should "appropriateness" of education be guaranteed for all children, regardless of handicap or absence of such conditions?

The questions of equal treatment under P.L. 94-142 and nondiscrimination under Section 504 protections involve the concept of reasonable accommodation. The basic

premise is that all things are not equal among handicapped and non-handicapped children; thus, reasonable accommodation must be made to the child's handicap in order to ensure equal opportunity. The premise involves the concept of equalizing opportunity. It is not unequal to provide higher cost services to handicapped children if such services are required to accommodate the handicap. The key issue is the concept of reasonableness, particularly as it relates to cost factors.

OTHER IMPLEMENTATION PROBLEMS

- Teacher Preparation/Staff Development

Failures to develop in-service training programs for teachers and associated personnel have been documented in Ohio, Maine, Missouri, California, and Maryland.

- Vocational Programs

Kansas City, Missouri is experiencing a lack of sufficient vocational programs in grades 7 to 12.

- Postsecondary Education

In Kansas and California there is a reluctance to accept special education students in postsecondary education settings. In Kansas Vocational Education is reluctant to target on special education, and there is little communication between Vocational Education and Special Education.

- Summer Programs

The development and financial support of appropriate summer programs for school-age children is a substantial problem in San Mateo County, California.

CONCLUSION

This paper has outlined a number of problems preventing full P.L. 94-142 implementation in several states. In conclusion, readers should remember a statement from the Maryland state situation report:

> "The greatest benefit has been to foster an awareness of handicapping conditions and special needs of persons with a handicap, not only among the public, but professionals as well."

APPENDIX ONE: UCPA AFFILIATES PARTICIPATING
IN P.L. 94-142 IMPLEMENTATION REPORT

Affiliate	Date of Report
• Affiliates Preparing Detailed State Status Reports	
1) UCPA of New York State (Robert Schonhorn, Executive Director)	September 7, 1977
2) UCP of Illinois (Jane Chapin, Executive Director)	November 1, 1977
3) UCP of Kansas (Jack Jonas, Executive Director) (John Strickler, Executive Director, KS Advocacy and Protective Services)	November 8, 1977
4) UCP of Central Maryland (Baltimore) (Jane Davis, Assistant Program Director)	November 17, 1977
5) UCP of Birmingham, Alabama (James Dill, Executive Director)	November 18, 1977
6) UCP of Northeastern Maine (Bangor) (Ruth Shook, Executive Director)	November 22, 1977 May 2, 1978
7) UCPA of Greater Kansas City, Mo. (Richard Head, Advocacy Program Coordinator)	March 15, 1978
• Affiliates Responding To January, 1978 Word From Washington article	
8) UCP of Eastern Kentucky (Ashland) (Mary Lou Strait, Executive Director)	February 9, 1978
9) Doris Weber, Kansas City, Mo. At-Large Member, UCPA Governmental Activities Committee	February 20, 1978
• Affiliates Responding To P.L. 94-142 Questionnaire	
10) Elsie D. Helsel, Ph.D., Athens, Ohio Chairperson, UCPA Governmental Activities Committee	December 27, 1977
11) UCP of Pugent Sound, Olympia, WA.	March 27, 1978
12) UCPA of Sonoma County, Santa Rosa, CA.	March 27, 1978
13) UCPA of King-Snohomish Counties, Seattle, WA.	March 31, 1978
14) UCPA of Hawaii	March 31, 1978
15) UCPA of Central Arizona (Phoenix)	April 3, 1978
16) UCPA of Santa Clara/San Mateo Counties, Palo Alto, CA.	April 3, 1978

17) UCPA of Kennewick, WA. April 3, 1978

18) UCPA of San Francisco, CA. April 4, 1978

19) UCP of Wenatchee Valley, Wenatchee, WA. April 6, 1978

20) UCPA of Los Angeles County, CA. April 7, 1978

21) UCPA of Alameda-Contra Costa Counties, Oakland, CA. April 13, 1978

22) UCP of Central California, Fresno, CA. April 13, 1978

23) UCP of Illinois April 15, 1978

- Excerpts From UCPA of California Report

  Kissner, Caroline Orr. Developmentally Disabled Individuals Of Normal Intelligence: Needs Assessment Findings. Palo Alto, California: UCPA of California, February, 1978. Pages 37-45.

- Federal Policy Background

  Ross, E. Clarke. "The Education For All Handicapped Children Act: A Status Report." Paper Prepared For The UCP of Red River Valley/North Dakota State University Conference on P.L. 94-142 and Section 504 Federal Requirements. Fargo, North Dakota: UCPA, November 17, 1977.

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Word from Washington

Mrs. KENDRICK. I am pleased to be here today, because I want to be a part of what still must be done, to see that Public Law 94–142 is fully implemented as it was intended, not just as it is interpreted by teachers, administrators, and school boards.

I would like to say that I was pleased to hear what Mr. Weintraub had to say about funding being only part of the problem, if we are to achieve full implementation. An equal part of the problem is going to be making the school staff and the school boards more understanding and more comfortable in meeting the needs of these children on an individual basis.

As a volunteer, I have been actively involved for a number of years in Wisconsin in influencing change in the service delivery system for people with disabilities, and I was also part of a small group of parents who were instrumental in the drafting, passage, and implementation of chapter 115 of Wisconsin's statute, which was a mandatory education law for all handicapped children enacted in 1973. This law later served as one of the models for Public Law 94–142.

Our own son, Matthew, who has cerebral palsy, is moderately involved physically. He is almost totally nonverbal. He uses sign language. And as of a year ago, started using a communicator, which is an electronic device that prints out his messages.

He has been in the Madison school system. He is now 17, and has been there since 1967. Prior to the Wisconsin law, and Public Law 94–142, we had initially 3 excellent years of programing services and the child blossomed. At the end of his third year, he was reading at a fifth grade level, or doing well in school and thoroughly loving it.

The following year, as a result of an evaluation—so we found very much later—a psychologist who had never evaluated children with physical disabilities before, he was determined to be profoundly retarded, and placed in a program for multiple handicapped children.

This was prior to the days of the law, and parents' rights, and we were almost 4 years getting to the bottom of the problem of why Matthew was taken off of reading, writing, and arithmetic, to counting ducks, balls, and so on, learning his numbers from 10, and learning to make change. A completely inappropriate program.

We also watched him turn into a child that we no longer knew. The child who had once been happy, pleasant, full of energy to improve his physical ability, to do his exercises, and activities as well as his intellectual pursuits, was now spending hours in front of the television, was acting out, misbehaving both at home and in the classroom, turning into a little monster, and almost became a victim of self-fulfilling prophecy of the teachers who thought that they meant well, thought that he was severely retarded, and had such low expectations for him.

He had no opportunity to demonstrate any abilities beyond those expected.

As a result of the passage of the law, or just prior to it, the year that it was beginning to be implemented in Wisconsin, we finally had some clout to get some outside evaluations, and to try to get a more appropriate program for Matthew.

As part of this process, I was advised by an outside consultant to take a look at Matthew's records, which he described as being a quite large, massive, and quite negative about me in particular, but parents

in general. His comment was that it contained more information about us, all negative, than it contained about our child.

I bring this up simply to point out one problem that we ran into and which exists today on a very wide scale throughout Wisconsin, and I am sure throughout the country. Even though there is a law granting parents a right to read their child's records, it is really not going to be a right of parents until the access and the procedure for access to those records are also mandated.

My own experience was, when I went into the school to read his records, I was told that I needed an appointment, and that someone would have to be present to interpret. Three weeks later, when I was handed my child's record, I was handed a brand new manilla folder, one with about 15 pages of paper in it. My son had been in school 7 years at that time.

I would suggest some changes, briefly, and they are spelled out more specifically in my written statement. A parent ought to be able to walk in, without appointment, and have access to the records. It should be done during the normal school hours, when the school personnel are present.

The schools that require appointments are really buying time to get the record in order before they wish the parents to see it. It is a known fact in the school systems in Wisconsin that there are two sets of records—one that the parents can see, and one that the parents are not to see.

It must be assumed that parents and other applicants are perfectly capable of reading the child's records, and if they have questions, they can make an appointment to sit down and discuss these with the appropriate personnel afterward.

The schools should be required to keep no more than one record on file for each child, to prevent documents from becoming both lost or misplaced, and therefore unavailable to parents. It should also be required that every item placed in the child's record is sequentially number, with the first page of the subsequent document bearing the number following the number of the last page of the previous document, so that it is always apparent if there is something missing.

Our own protection and advocacy system is running into serious problems with this same sort of practice, the lack of access to records by the parents and to attorneys, which becomes a very serious problem if there is an appeal.

Just briefly, as a result of a series of events, we were able to get our son into a more appropriate program. He was for the next 4 years mainstreamed more and more, with support services, and we watched him grow and blossom once again. The recovery from the damage to his self-image has been much slower, but he is at 17 a much happier, more fulfilled child, and once again learning.

Last spring, in preparation for his movement into high school as a freshman, he received a multidisciplinary team evaluation. This was done by the Verona school system, although he is served, and has been served all his life by the Madison system, which is much larger.

The M-team—My feeling was that this was the first one that had been done since such an evaluation procedure had been mandated that was done correctly for Matthew because his home school district did take the leadership role, but it did involve the local school district where he was attending school.

We sat together, the eight of us, and the members of the M-team, my husband and I, and wrote up the recommendations. We were all pleased with them. They were signed, and my son was going to go to a high school where they had learning disability services and support, but he would be essentially mainstreamed.

He had been to the school to visit. He was excited. His records were there. But 5 days before school started last fall, we were informed that because of a minor technicality in the legality of the M-team, which they had discovered, they found the M-team invalid. In other words, they would not accept the convening of the M-team to correct that one minor infraction. They preferred, in fact, and insisted that the only program open to Matthew would be a 1-year of assessment in a self-contained program at a different high school for evaluation purposes, because even though he had been in the system for 12 years, they still did not know how he functioned cognitively.

As of today, he has been in school without an M-team, without an individualized education plan, without signed permission from us for placement. I bring this up because this is an example of much of what is going on throughout the country.

Wisconsin is far ahead of a lot of States, I realize, and a lot of children are being properly served, but we still have a lot of problems. This kind of situation is happening.

Our problem, and I think that this is one of the real crucial things, is an oversight on the part of a lot of us because we had never run into it before, we cannot appeal, even though we have an appeal process.

The Verona school system, and we are in complete agreement as to what is an appropriate program for Matthew, at this time it can only be provided in Madison where they have the options and the alternatives available, and where Matthew has been educated for 12 years.

However, we cannot appeal to the Madison school system as parents, under both the Federal and State law. You have to appeal the decision of your home school district. We found that our home school district is powerless to force the receiving school district with whom they are contracting to not redo the M-team, or to not have a decision as to where the child will be placed, even though the home school district pays the cost of contracting with the school district for the services, which in the case of our son is close to $5,000 a year.

So what we see is that the appellate process breaks down completely the moment any effort is made to contract with a neighboring school district to provide services in a larger school district, who has a greater variety of services for children with unique problems.

What happened to Matthew this year was not supposed to be allowed under Public Law 94–142, nor are we supposed to be powerless to do anything about it.

So I find that even though I am aware of how the system works, how it is supposed to work. I am aware of the rights. There is nothing that we can do about it.

I think that one of the problems that we have to look at, and that we have to deal with, along with adequate funding, is the recognition that there are many educators, not all of them, but too many of them, who are putting a great deal of energy into searching for loopholes, and making arbitrary decisions for budget purposes. Part of this problem is because the budgets are tight, and if there was not this problem, they

would move over into the area of being more concerned about individualized programing.

As a part of my testimony, which I submitted, I would just like to bring to your attention that as a broader attempt to determine the impact of Public Law 94–142 on the educational opportunities and experiences of people with disabilities, in June of 1978, the United Cerebral Palsy Association published a survey of experiences with implementation throughout the country. The study indicates that there is mixed success for the program.

Specific problems areas that were identified were the provision of related services, parental input into the development of the individualized education plan, the absence of adequate service coordination between public and private education provides, and a lack of resources. A copy of that report is attached to my prepared statement.

Mr. SIMON. Thank you very much, Mrs. Kendrick.

Our next witness is Mr. Frank Bowe, the executive director of the American Coalition of Citizens with Disabilities, Inc.

STATEMENT OF FRANK BOWE, DIRECTOR, AMERICAN COALITION OF CITIZENS WITH DISABILITIES, INC.

Mr. BOWE. Thank you, Mr. Chairman. I am very pleased to be here before the subcommittee. I am going to be very brief, Mr. Chairman, and make a few points that have not been made by previous witnesses.

I know that the work that the Subcommittee on Select Education has been doing over the last few years has been very comprehensively reviewed by the previous witnesses, in particular Mr. Weintraub for the Council for Exceptional Children. I think he laid out very succinctly what the rationale was behind the basic authorizations and requests for appropriations.

I think that there have been some very telling personal examples given by witnesses from Wisconsin and Georgia, and others, to what the impact is now in light of inadequate funding.

I want to address myself to the immediate future, and just make a few comments as to what will happen if this bill is not adequately funded.

First I do want to state that in legislating this law, Public Law 94–142, the Congress did make a commitment, and did lay that commitment out very explicitly. It said that it was going to provide a number of dollars to provide for a certain proportion of the extra costs that were involved in educating disabled children.

You made that promise. You told the States when they came in to testify on the bill that they would be assured that that proportion was going to be met by the Federal Government. On that basis, I believe, the States went forward, of course, some much more than others.

There was a commitment that was made, and that commitment has not been lived up to. This current year there was supposed to be 20-percent funding, but it is only going to be 12 percent. The Administration has asked next year that there be 12 percent again, but the commitment then is for 30 percent. I can see the day when the expectation is for 40 percent that there will still be 12 percent funding from the Federal Government.

In light of this, I think there is a lack of good faith effort on the part of the Federal Government.

Second, as of September 1, the States were supposed to have been in compliance. They were supposed to be doing what the law requires them to do under the agreement that they entered into in accepting funds under Public Law 94–142. Accordingly, they cannot say that they are now not in compliance.

This kind of a situation is almost a "catch-22" in that the States refuse to identify additional handicapped children because if they are not identified, they need not be served.

Third, the law calls for education in the least restrictive environment. Now, this is entirely appropriate. Whatever is the least restrictive environment for that child, that is the environment in which you want that child to be placed. It may be a different setting in the community from child to child. But it must be the least restrictive environment for that child, that is appropriate for that child.

When we say appropriate, we are talking about the provision of the necessary services. In lack of funding, what happens if the children are placed in some kind of least restrictive setting without support services? This is very possible what is going to happen to many children.

You may then ask whether the States should put these children in more segregated settings, and the answer is no, not necessarily, because the segregated settings are very expensive. Whereas dumping the children into the mainstream without supporting services is the cheapest possible alternative. It would be the alternative followed, Mr. Chairman.

We feel that without full funding, the schools may stop, or already may have slowed down their efforts to identify children. This has happened, and has been documented. But one thing that people have never recognized is that youth, particularly youth that need vocational education and other services, are not being served.

Only 1.47 percent of all the children and youth served by vocational education programs are disabled. You heard testimony from Massachusetts that 14 percent of the school-age population was identified. But in vocational education, only 1.47 nationwide have been recognized.

Another concern we have is that the individualized education programs, which of course are to document services, will not be written according to the specifications of the law, but according to what is available in that school system, or is available in the context of funding.

In other words, this cooperation between the school and the parents will not call for the provision of services that that child needs, but the provision of services which are affordable, readily available, and can be met within the context of the limited funding available. This is not serving children, Mr. Chairman.

We feel that if Public Law 94–142 is not fully funded, most of the early childhood programs will not be provided. You are aware that it is critical that the earliest possible intervention be effected.

Let me say, Mr. Chairman, that if Public Law 94–142 is not fully funded the Federal agencies efforts of compliance will be very severely hampered. The whole basis of compliance and enforcement purpose is that the Federal Government has met its obligation, and it is coming into the State and saying: How are you doing in meeting your share of the obligation.

It is very difficult to do that if you are living in a glass house. How can you do that if you have not yourself met your obligations mandated by the law.

Other witnesses have pointed that this law is only in its second year if implementation. It has just begun. The State plans were just approved last year. We are talking about failing to fund a program at its very big and voluminous dollar cost, and putting a very, very severe cramp on any further effort.

My next comment is that there have been some suggestions made by some of the appropriating people that the Public Law 89–313 costs, which have something to do with the most severely disabled students, there would be a cap put on the amount of funds to be spent there. This is extremely dangerous because those are our most severely disabled.

In many cases, these are those who require extensive support services. If you have a situation where you have a failure to fund Public Law 94–142 and the cap on Public Law 89–313, you are going to have a failure to serve those children who are severely disabled.

In summary, I have to try to be a little bit broader, and I told you that I was going to look at the immediate future and I am going to do that.

Now I am going to try to say, what is going to happen if we continue this pattern of lack of commitment and underfunding, of the failure to standby the agreement that was made. I have outlined within more specific consequences, but there is a much broader one, which I don't think has been touched on. Mr. Chairman, I think that we should should be very much aware of this.

This Congress is very dedicated at this time to holding down the cost of government, to try to find ways to ease the burden of large government upon the people. It may seem paradoxical, but it is not, if this law is fully funded, and if this effort goes forward, you will be cutting the cost of government, and dramatically so.

I think that the point has been made very, very explicitly, particularly before the Social Security Advisory Committee in HEW, and before some of your colleagues here who are concerned with social security and supplemental security income, that the Federal Government is now spending $40 billion a year on dependent programs among disabled people who have not been educated, who have not been served, and are not able to find work—$40 billion a year, this figure represents $1 for every $13 in the Federal budget, which is a very sizable amount of money.

Mr. Chairman, what is the Federal Government spending on independent disabled people educationally if we were to take them together, what is that figure compared with the $40 billion on dependent program. The answer is, less than $2 billion.

Mr. Chairman, if you will take a look at this, you will find that the Federal Government and this Congress are spending $20 on dependent among the disabled for every dollar spent on independent. If this budget figure is cut down, will it get smaller? No, Mr. Chairman, it will get much larger.

Let me give you an example. Disability insurance right now on the Federal level is $15 billion, and by 1985, the Secretary of HEW has

testified that it will be $27 billion, almost doubling in the next 5 years. This will happen if and only if people who are disabled are not able to be independent taxpayers. That is, they must remain segregated rather than becoming integrated. If they must be tax users rather than taxpayers. If they must be dependent rather than independent.

Mr. Chairman, I am talking about spending some money, yes, but spending some money so that a great deal more can be saved. That is exactly what this Congress wants to do, and it wants to do it in a compassionate kind of way, so that it can do it with the least amount of harm to those least able to absorb cuts. This is exactly what can be done here.

You are offering a program that offers compassionate and very important services to people who need them desperately, and I think that in many cases a very kind and soft word compared with rejection that many parents and children are receiving today.

You can do this. You can provide, you can move forward, you can fully stand behind the commitment made, and know that at the same time you are being entirely consistent with the desire to cut the burden of government on the American public.

The lack of support is endangering the implementation of the legislation, and is a potential time bomb because uneducated children and youth will become unemployed or underemployed adults of tomorrow.

There can be no question, Mr. Chairman, that the time for the Congress to act is now. Thank you.

Mr. SIMON. Thank you very much, Mr. Bowe.

[The complete statement of Mr. Bowe follows:]

WRITTEN TESTIMONY ON APPROPRIATIONS FOR PUBLIC LAW 94-142, EDUCATION OF ALL HANDICAPPED ACT

(Submitted by American Coalition of Citizens With Disabilities, Inc.)

Mr. Chairman, members of the distinguished Subcommittee on Elementary and Secondary Education, I am Frank Bowe, Director of the American Coalition of Citizens with Disabilities, Inc., (ACCD), the nationwide advocate for disabled people. The Coalition, as you know, is a unique organization. It encompasses the major consumer groups representing virtually every category of disability—deafness, blindness, cerebral palsy, mental retardation, learning disabilities, paraplegia, and several others—as well as the major professional associations active in serving disabled people, such as the Council for Exceptional Children and the National Rehabilitation Association. Our 75 member organizations have a combined membership exceeding 7 million of the nation's 36 million disabled citizens. Our 14 member Board of Directors is composed of nationally respected disabled leaders; the members of our task forces and committees are almost all disabled; and many of our staff members, including myself, are similarly disabled.

Through ACCD, disabled people and professionals in the field speak together, with a united voice, on issues of concern to Americans who are physically, mentally, and emotionally disabled. It is on one such issue, and an enormously important one, that I am privileged to present recommendations to you today.

I wish to address myself to several critical concerns related to the work you are performing regarding the future appropriations of Public Law 94-142. ACCD would like to go on record as recommending full funding of Public Law 94-142. We are deeply concerned that Public Law 94-142 may not be fully funded to meet the needs of all the handicapped children in this country.

ACCD's second recommendation is that the 89-313 funds which serve the most severely handicapped children and youth in this country—not be capped at this time.

When the costs of dependency of disabled persons in this country exceeds $155 billion a year, when one of the only solutions to this problem is to provide sufficient and appropriate education to insure handicapped students' future employment, and when this country is just in the initial efforts of implementing Public Law 94–142—th[illegible], to even consider a cutback in the appropriations to the education of all handicapped children is both untimely and inappropriate.

ACCD would like to voice what it views as the specific problems that would be caused by the failure to fully fund Public Law 94–142.

1. ACCD feels extremely justified in fighting for appropriations which insure the civil rights for all handicapped students. If Public Law 94–142 is not fully funded, as was the original intent of Congress, this will be deemed as a loss of good faith efforts on the part of the Federal Government. School districts will begin to "re-define" the problem of educating all handicapped students so that such a problem no longer exists. In other words, many students will either be inadequately served in the future, or go completely unserved.

2. ACCD is concerned about the possibility of a Catch-22 type of situation developing in terms of the delivery of services to all handicapped children. As of September first, States were to have been in compliance in providing comprehensive services to all handicapped children. Therefore, they are in the position of not being able to say where they need more services if they are already "in compliance". In this kind of a situation, states will refuse to identify handicapped children, knowing that they cannot get the necessary funds for related and support services. Therefore, handicapped children may receive the special education services, but fail to receive the necessary therapy, transportation, health screening, and/or other support and related services for their successful function in the classroom.

3. Public Law 94–142 requires that all handicapped students be educated in the "least restrictive environment". Unfortunately if full funding of this law is not provided, handicapped children may be dumped into the mainstream without being provided the necessary related and support services. This is the most cost effective approach. When one compares the cost of regular education to the cost of special education at the local level, it's obvious that regular education is far less expensive. Such mainstreaming can also be the most damaging approach to educating handicapped children when the support services are inadequate or missing. In other words, without full funding, there is the possibility that handicapped students will be put into regular classes without the services of a resource teacher, without properly trained regular teachers (in terms of teaching handicapped students), and without the appropriate instructional materials. For example, deaf students can be successfully placed and educated in regular education if proper support services are provided. Without such services, mainstreaming is damaging and pointless.

4. ACCD fears that without the assurance of full funding for Public Law 94–142 school districts may stop or may have stopped looking for all those children and youth who may be identified as handicapped. One million of the eight million handicapped children and youth in this country are out of school altogether. Only one third have a high school education or better. Since districts are unassured of receiving the funds to provide the necessary services, large cities, rural areas, and areas which include most of the poor and uneducated—will "fail" to locate those children in need of appropriate education and services. Since disabled persons are typically uneducated, they will continue to be uneducated and financially dependent upon this country.

5. Another major concern that ACCD has is that the Individualized Education Program (IEP) which is to be written for all those students who are receiving special education and related services will not be written according to the specifications of the law. It is the IEP that documents the handicapped student's free appropriate public education. The services are to be designated which are necessary to meet a handicapped child's individual needs as adequately as the non-handicapped child's needs are met.

If Public Law 94–142 is not fully funded, the IEP's will be written based only on those services that are available, instead of being based on the individual needs of the students involved. If the school districts are not assured of adequate funds to provide the appropriate education and services, there is little chance of their being provided.

6. If Public 94–142 is not fully funded, most of the early childhood programs will not be provided to as many handicapped children as require them. The recent trend seems to be to eliminate these services when funds run short or are not assured. This is a terrible misfortune.

As most educators are aware, it is critical to locate handicapped children as early in their lives as possible for the most effective and appropriate rehabilitation.

7. If Public Law 94–142 is not fully funded, the Federal agencies efforts of compliance will be deterred. Such compliance requires the good faith of the Federal government to stand behind its commitments. It takes strong efforts to assure such compliance. With the passage of Public Law 94–142, Congress was leading the national responsibility to make sure that all handicapped students would be served. Presently, we have been moving positively forward, but if the monies stop, there will be a significant slow down in progress and the goal of serving all handicapped children appropriately, will never be reached.

Public Law 94–142 is only in its second year of existence. State plans were just approved as of last year. The law is just in its initial stages of being implemented. In the meantime, advocacy groups have been applying pressure at the state and local levels to come into full compliance with the law. Without the necessary funds, compliance will not be realized.

8. ACCD is totally against a "cap" on the 89–313 funds until such time that Public Law 94–142 is fully funded and capable of absorbing such costs. Then, and only then, can Public Law 94–142 begin to absorb the 89–313 costs.

It is the severely handicapped students, especially those who are in institutions who are served by the 89–313 funds. If such funds were capped prior to the full funding of Public Law 94–142, many of this country's most severely handicapped students would go unserved.

In conclusion, it could be said that the 96th Congress has before it an excellent opportunity to demonstrate its good faith in living up to previous Congressional commitments made in behalf of the handicapped students of this country. As of this date, Congress has not lived up to the promises it made in Public Law 94–142, the landmark Education for All Handicapped Children Act of 1975. This law pledged a 30 percent Federal share of the extra costs of educating disabled children for fiscal year 1980, yet the Administration has requested only enough to provide 12 percent of these costs, the same as appropriated for fiscal year 1979 when the commitment was for 20 percent. The lack of support is endangering implementation of this excellent legislation—and is a potential time-bomb as under-educated children and youth will become un- and under-employed adults. The time for Congress to act is now.

Mr. SIMON. Ms. Buvinger, I regret to say that we are under severe time constraints. I am afraid that they are going to call us to the House before too long, so if you could be very brief.

[Prepared testimony submitted by Ms. Buvinger follows:]

TESTIMONY ON BEHALF OF THE NATIONAL SCHOOL BOARDS ASSOCIATION ON EDUCATION OF ALL HANDICAPPED CHILDREN (P.L. 94–142)

(Presented by Margaret S. Buvinger, President, National School Boards Association)

PREFACE

My name is Margaret Buvinger, and I am President of the National School Boards Association. I am pleased to have this opportunity to testify before the Subcommittee on Elementary, Secondary, and Vocational Education and the Subcommittee on Select Education. The National School Board Association is the only major education organization representing school board members—who are in some areas called school committee members or school trustees. Throughout the nation, approximately 90,000 of these individuals are Association members. These people, in turn, are responsible for the education of more than ninety-five percent of the nation's public school children.

Currently making its thirty-ninth year of service, NSBA is a federation of state school boards associations, with direct local school board affiliates, constituted to strengthen local lay control of education and to work for the im-

provement of education. Most of these school board members are elected public officials. Accordingly, they are politically accountable to their constituents for both education policy and fiscal management. As lay unsalaried individuals, school board members are in a rather unique position of being able to judge legislative programs purely from the standpoint of public education, without consideration to their personal professional interest.

Association policy is determined at the NSBA annual convention at which representatives from across the nation translate policies and resolutions into ongoing programs—including legislative recommendations.

INTRODUCTION

I am pleased to testify on behalf of the National School Boards Association with regard to the Education for All Handicapped Children Act (P.L. 94–142). I shall consider Sec. 504 of the Vocational Rehabilitation Act of 1973 along with P.L. 94–142 since in practice they cannot be separated.

During the past year, we have heard frequently from school board members on issues relating to these pieces of legislation. NSBA is appreciative of the opportunity to share local school districts concerns about educating the handicapped student. As you know, NSBA has been an advocate of P.L. 94–142 and as an advocate, we have been working assisting local school boards in their policy making roles in this area. I have enclosed a copy of 1978 Task Force Report. In it, NSBA attempted to gauge the nature and extent of the impact of this law on school districts. The support for the program is evident throughout the report. The school board members identified concerns a year ago some of which remain significant for consideration today.

It has been said that the only major administrative problem in this program could be resolved with more money. While in many cases money will solve the problems, that statement is not completely true. Consequently you will find among the issues we are raising today a need for a variety of solutions, one of which is adequate funding for the program.

TESTING, PLANNING, INSERVICE TRAINING, AND DUE PROCESS HEARINGS

There was a time when parents were reluctant to have their children tested for fear that they would be stigmatized. Such situations are becoming increasingly rare as parents recognize the diagnostic benefits of testing for their child. The recent assurances that records will be accorded privacy and may be examined by the individual for accuracy has been another likely reassurance to parents. This openness has made it much easier for schools to work with parents to solve learning problems. Nevertheless, this improved attitude on the part of parents has created a problem for the implementation of P.L. 94–142. I guess if one can have a "good" problem, this is an example of one. The problem is that school districts are being swamped with evaluation requests.

The time and personnel required for testing is a major burden for the local school. The burden is particularly heavy at the beginning of the school year. One administrator of a large district told us that he could use 100 evaluators for the first two months of the year while for the remainder of the year his regular staff could cope with the load. The fact is that the 30 school day limit between identification and diagnosis is far too short given the resources of the average school system.

Another area of concern has to do with the development of the "Individualized Education Plan" or in education jargon, an IEP. One of the more disturbing issues is the impression of some parents that the IEP is a binding contract between the schools and themselves rather than the curricular plan which it actually is. An IEP cannot actually guarantee learning or precisely match program inputs with student outputs.

The idea that an IEP is a binding contract misrepresents the essence of the pedagogical process. The IEP is a plan which provides a blueprint for the professional educator. The use of this plan will be greatly influenced by the student and the educator's professional judgment of his learning progress. When parents do not permit the intervention of professional judgment because of a misplaced conception of what the job of the school is, the student is harmed and the teaching profession is demeaned. These situations do occur and they are unfortunate. Parents need a clearer understanding of what an IEP can and cannot do for their child.

The development of IEP's demand much teacher time in both their development and their implementation. In many cases where handicapped students are mainstreamed, the paperwork associated with the IEP cuts directly into the time for curriculum planning for all students. The cost of IEP's are more than the up-front time for development. The costs also include the more hidden time for monitoring and implementation.

How many people, outside of those who actually perform the task, have ever experienced the thought it takes to determine the ideas and concepts that must be taught for a week to a particular group of students and, then, after those concepts have been identified, designed the learning experiences that will provide students a rich environment for learning those ideas? For special education students, it is a huge task which only becomes more complicated when placed in context of planning, grading of papers, etc. that already classroom teachers do—usually on their own time. This problem can only be solved by involving more personnel. But personnel requires financial support unavailable in most schools.

In addition, there are great numbers of teachers who are very fearful of teaching handicapped students, not because they dislike them, but because they have never been trained in how to work with these students. To a great extent, this reluctance is based on professional recognitions for the necessity of having special skills to deal with handicapped students. There is a need for quality inservice training for a great majority of teachers.

Another problem is the lack of an appeal process in the Act for school districts. The law provides parents with the right to appeal what they consider an unsatisfactory resolution of their child's handicap-related learning problem. When P.L. 94–142 was first implemented there was confusion as to whether a school district had the right to appeal to the state from a local hearing officer's decision in favor of the parent.

There is also a question as to the competence of the hearing officer on education matters. Specifically, many hearing officers are selected because of their ability to handle procedural technicalities (i.e., attorneys). Even where hearing officers have substantive expertise in special education, they do not necessarily have the expertise to deal with each and every case brought before them. Apart from the quality of some hearing officers, by the time a case reaches the hearing level stage, and given the procedural requirements involved, all too frequently the hearing takes on the trappings of an adverserial situation between parent and school district—rather than focusing on the best educational placement of the child. At the same time, some states do not want state hearing panels to make education decisions about children. Consequently, NSBA recommends first, that P.L. 94–142 be amended to make it clear that local school districts have the right to appeal from the local to the state level.[1] Second, NSBA recommends, that at least in those states where as a matter of constitutional law state panels are prohibited from making substantive decisions about the placement of children, that that requirement of P.L. 94–142 be waived.

ARCHITECTURAL BARRIERS

Just as the federal government mandates full services for handicapped students, it also requires the removal of architectural barriers. Based on a March 1978 survey of 200 school systems, the national cost of barrier removal would be $1.7 billion. Since this mandate must be met by June, 1980, school systems will be considering their budgets during the spring of 1979 for the purpose of meeting the 1980 deadline. Accordingly, in order to ensure orderly planning—including appropriate funding for other budget categories (textbooks, teacher salaries, etc.), the federal contribution should be known as soon as possible. Since barrier removal involves capital outlays, a special problem can arise if school systems have to use bond referenda. In the event taxpayers turn down bond issues, the school systems will be caught in a bind between following a voter mandate not to build and a possible fund termination by the Office for Civil Rights if they do not build.

On this latter point, the suggestion has been made that perhaps OCR can grant waivers on a case by case basis. We do not consider this to be the preferable approach for the following reasons: (*a*) defering the implementation date,

[1] In some States it would be more efficient to permit direct appeal from the local school board's decision to the state panel. Hence, an option should be granted to eliminate local hearing officer.

especially on a case by case basis will generate confusion and attack the credibility of the § 504 program, (*b*) case by case waivers imply OCR investigations of local school systems, and compliance plans, in turn mean more work and tension for the local level, and (*c*) waivers which include compliance plans only mean the local property tax base will be strained at some future date—or in bits and pieces. Accordingly, NSBA is requesting $500 million for FY 1980 to meet hardship cases.

We have been told by the Office for Civil Rights that our figures are too high and much of our concern unfounded. There is very little data besides the NSBA research. The OCR study promised during the 1979 appropriations hearings for December 1978 has not been compiled. NSBA has received no information that would cause us to change our original calculations of cost. We will be delighted to make copies of these studies available to the Committee. The one-time cost of barrier removal continues to be one of the major obstacles to school districts.

COSTLY ITEMS: RESOURCE PERSONNEL AND PRIVATE SCHOOLS

There is a scarcity of trained and certified school resource people, such as speech therapists, available to school districts. The variability of the enrollment makes school districts hesitant to hire expensive personnel if they are unsure of a long-term need. If the enrollment of handicapped children slips and these professionals are no longer required, the district must bear the costs associated with severance. This problem is compounded by state guidelines which establish specific, and small specialist-student ratios. In such cases, the addition of one student over the guideline may result in costs rising by $25,000 to accommodate a new staff position—even though an especially good program could be offered with a higher ratio. Staffing programs is, and continues to be, a problem. We need more trained personnel, ideally with competence and certification in several areas so that the school district might be able to utilize their training in several ways as the handicapping characteristics of the school population vary from year to year.

With respect to private school placement, school districts are increasing their capability to enroll a greater number of differing handicaps. One of the financial effects is to avoid the extremely high costs of private institutions. But school personnel and school board members are telling us in increasing numbers that they are frequently under pressure from parents to enroll their children in elaborate private institutions rather than adequate, but often not as elaborate, school district facilities. We have been told that the appeal hearing is used to present the public relations materials of private institutions. These materials are presented as evidence to the hearing officer of the advisability of placing the handicapped youngster in the private institution with the public school paying the bill. We do not know the extent of this problem. However, we are becoming keenly aware of it. We would recommend that it be investigated and remedies introduced before we find ourselves in a situation where public schools will not be required to serve handicapped students in any way except to pay for their education.

1980 APPROPRIATIONS

NSBA has made this program a priority for funding because it has a Federal mandate that school districts must serve all handicapped youngsters in their district between the ages of 3 and 21 years. This mandate translates immediately into higher expenditures for school district—including those which are already facing revenue shortages.

Research has established, that on the average, it costs two time the average per pupil expenditure to educate a handicapped student with a range of 1.18 for speech handicaps to 3.69 for physical handicaps. The U.S. Office of Education estimates that the fiscal year 1980 per pupil expenditure will be $1,819. This translates to an average cost for a handicapped student of $3,638 with the excess costs totaling $1,819. Given preliminary data that NSBA has from a survey currently conducted, we know these figures are not off base. In contrast, the Federal Government is offering to pay $218 excess costs per child in fiscal year 1980.

This legislation is unique in that, contrary to other Federal programs operating procedures for how to achieve its purpose are specified for local schools. Consequently, the items that cost districts are mandated and identifiable. School

districts from all over that nation are are facing spiraling operating costs due to the testing requirements, the high priced personnel required to perform evaluation, counseling, administrative and specialized instruction functions, the tuition grants paid by local districts to private institutions, the support for general education teachers who are teaching handicapped children in increasing numbers and transportation. More than in most programs, the Federal Government can pin-point the cost items. Instead, it has chosen to ignore the obvious and arbitrarily avoid its responsibility.

The authorizing legislation of 1980 establishes the marking of funding to 30 percent of excess costs instead of the 1⁹ percent offered by the Administration. NSBA supports Representative Simon's efforts to seek an appropriations to fund 20 percent of excess costs, or $1,437 billion. The addition $575 million will provide school districts with increasing capacity to serve handicapped students while limiting the strains on them to raise local property taxes or to remove funds from the general programs.

NSBA COST SURVEY/FOR THE RECORD

Approximately three weeks ago NSBA sent a detailed data request to 700 local school districts. To date we have received over 180 responses. This response rate demonstrates a genuine interest among school boards to receive adequate federal funding. Since we expect more surveys to be returned in the next few weeks, and given time necessary for a responsible tabulation and analysis of the data, we would like to submit our report for the record at a later time. Further, we believe that there are other areas which we were not able to develop in our statement today which we might wish to submit to the record.

SUMMARY

It is always a pleasure to testify when Congress is examining the ramifications of its legislative acts.

TASK FORCE NO. 4: THE IMPACT OF NEW HANDICAPPED LAWS

Introduction

The following Task Force report to the NSBA Board of Directors deals with the impact of Federal special education mandates upon public education. More precisely, the report addresses two laws, i.e., the Rehabilitation Act of 1973 [1] and the Education For All Handicapped Children Act.[2]

This introduction will summarize the background which led to the creation of the Task Force and to the development of these federal mandates.

a. Creation of the task force

Local school systems have already been concerned with the educational needs of handicapped children. Especially in recent years, school boards have probably given more attention to special education than any other area of education. To a great extent progress for these high cost services have been accelerated by state legislatures, the courts, and now the federal government. With respect to the latter each school district is mandated to provide a "Free Appropriate Public Education" for every handicapped child within its jurisdiction.

For the most part, school board members have supported the objectives sought by the mandate. However, at the same time serious questions of local governance, costs, and school management are posed. Indeed, it is because of the impact which these laws will have upon special education and the future of public education generally, that NSBA President Will D. Davis created this Task Force.

The Task Force consists of thirty school board members [3] from across the country, including some who are parents of handicapped children or who are themselves handicapped. First, during September and October, 1977 they met

[1] This Civil Rights law requires that, as a condition for continuing to receive federal funds, school districts must provide special services to handicapped children, remove architectural barriers, and end discrimination in employment practices.

[2] This law (P.L. 94-142) is a grants-in-aid program which offers funding when school districts provide certain student services and procedural rights beyond the requirements of § 504. In practice it operates as a mandate.

[3] The members of the Task Force are listed in Appendix A.

in regional groups of six each in the following cities; Denver, Colorado; Salt Lake City, Utah; Washington, D.C.; Chicago, Illinois, and Atlanta, Georgia. Then they met as a whole in Washington, D.C. on January 6, 1978.

b. Development of the legislation

From the standpoint of the Federal Government, prior to 1965 very little was done to assist in the education of handicapped children. In that year Congress passed Public Law 89–313, a small set-aside of ESEA Title I funds to assist handicapped children in State-supported schools. The following year Congress passed Public Law 89–750, which included a $51 million State grant program to develop local demonstration projects. During the ensuing decade, this basic enactment was reshaped in 1970 and again in 1974. However, the basic structure of the program remained the same and the funding rose to only $110 million.[4]

Apart from the basic program, the Federal level created other demonstration programs through small set-asides under ESEA Title III, ESEA Title V, and the Vocational Education Act.[5]

Hence, from the standpoint of either governance or financing, historically the Federal role in special education was one of reluctant leadership.

If there was an activist role during this period, it was being played in the courts. First, in 1971, the Pennsylvania Association for Retarded Children (PARC) and the parents of 13 mentally retarded school-age children brought a class action suit against the Commonwealth of Pennsylvania, its agencies, and its school districts for the failure to educate all its retarded children.[6] The parents successfully argued that the denial of such education was in violation of the equal protection clause of the 14th Amendment of the U.S. Constitution. That is, if education was provided for some, it must be provided for all.

For those who dismissed the PARC success as a quirk, a more impressive Federal decision was handed down the following year in the District of Columbia.[7] In issuing its verdict the Federal court decreed:

1. All children, regardless of any exceptional condition or handicap have a constitutional right to a publicly supported education.

2. Any rules, policies and practices which excluded children without a provision for adequate and immediate alternative educational services in the absence of a prior hearing and review of placement procedures denied such children the right of due process and equal protection before the law.

More than 46 court cases in 28 States have followed the *PARC and Mills* decisions. The rights of a handicapped child to a free and an appropriate education clearly gained preaumptive status when school opened for the 1974–75 school year. Further, many States upgraded grants-in-aid programs, due process procedures, and special education facilities.

But the question remained, could the States and local school districts, even under court order—deliver on its special education obligations.

Beginning in April 1975, the Subcommittee on Select Education and the Subcommittee on the Handicapped held extensive hearings both in Washington, D.C. and elsewhere across the country. Following these hearings Congress found that:

1. Over 1.75 million handicapped children in the United States were being excluded entirely from receiving a public education solely on the basis of their handicap;

2. Over half the estimated 8 million handicapped children in this country are not receiving the appropriate educational services they needed and/or were entitled to; and

3. Many other handicapped children were still being placed in inappropriate educational settings because their handicaps were undetected because of a violation of individual rights.

Congress therefore established the Education for All Handicapped Children Act, Public Law 94–142.

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[4] The cost of providing special educational services is estimated to exceed $4 billion per annum.

[5] Combined, these set-asides are estimated to provide an additional $100 million of services. The state institution set-aside program with ESEA Title I now receives about $121 million.

[6] *Pennsylvania Association for Retarded Children* v. *Commonwealth of Pennsylvania*, 343 F. Supp. 279 (E.D. pa., 1972), Consent Agreement.

[7] *Mills* v. *Board of Education of the District of Columbia*, 348 F. Supp. 866 (D.D.C., 1972).

Findings

The Task Force in considering the far reaching possibilities contained in this topic decided to limit the area of discussion to the following points:

The Individual Education Plan; Least Restrictive Environment; Teacher Reactions; Special Education Budget; Architectural Accessibility; Completion of Forms; and State Policies.

In introducing these general findings, where appropriate, the topic discussion will be preceded by a short definition of the terminology.

1. THE INDIVIDUAL EDUCATION PLAN

a. Definition

The Individual Education Plan (IEP) is a key element to providing a Free Appropriate Public Education (FAPE) as required by P.L. 94–142. Essentially, it is an annual meeting between teacher, special education supervisor, parent, and the child (when appropriate). During this meeting the child's goals, objectives, and services to be provided are set forth in writing

b. General comment

Although there was no across the board concensus, the results of the surveys and regional discussions indicated that Task Force members felt that most aspects of the individualized plans were probably helpful for effective implementation of special programs. While several Task Force members had disagreements with some of the details of the planning process, the concept received general support.

The heavy administrative work load generated by the IEP process,[8] has been primarily due to meeting the October 1 completion date. For the most part, the additional work required in the preparation of the IEP's must be completed by the classroom teacher or an itinerant instructor. However, for future years, the administrative work load was perceived to be a lessening problem for the following reasons:

1. Since this is the first year for both parents and teachers, the participants can be more "efficient" next year.
2. School systems can stretch their IEP development process over a longer period of time next year.
3. Staff won't be "doubled up" by having to conduct as many evaluations next year, in addition to preparing IEP's.

Even in light of the above expectations, many Task Force members weren't willing to dismiss the work load issue. The reason is that many school districts were just beginning the IEP process, and therefore they were unsure as to the full impact.

c. The IEP concept

Several Task Force members suggested that when the costs and numbers of children involved with IEP's are known to the general public, pressure will build among parents to intiate IEP's for regular students as well. Apart from cost, that direction was perceived as a reversal of the American educational experience of a standard (basic) education for the masses. For some Task Force the above was regarded as financially, pedagogically, and administratively impossible. On the other hand, one school district reported:

"The federal mandate merely provides a positive reinforcement to encourage more systematic individualized pupil planning. The format for the individual education plan, under the federal law, is generally adequate. The need for constant improvement and sophistication of teacher planning for individualized instruction exists now as it always has."

2. LEAST RESTRICTIVE ENVIRONMENT

a. Definition

The law requires that special education children be educated in the least restrictive environment. More precisely, to the maximum extent possible, they must be educated in the regular class setting, i.e., with non-handicapped children. This requirement applies to extra-curricular and non-academic activities as well as regular classroom services.

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[8] The surveys revealed that the development of IEP's covered a broad range of 30 minutes to 13 hours per pupil. Most IEP's required between 1 to 3 hours per pupil. The amount of time per IEP was not correlated to the size of the district.

b. Comments

Most Task Force members supported the objective sought by the least restrictive environment requirement. In addition to helping the handicapped child, many perceived a benefit to regular children to the extent that their prejudices would dissolve and they could offer peer help to these children.

However, concern was expressed over "dumping" of handicapped children into a regular classroom and forcing them to compete at an obvious disadvantage. By the same token, a certain tension was perceived between least restrictive environment and individualized planning. Several Task Force members were concerned about the impact of the "disruptive child" on other children. In addition, concern was expressed over the considerable teacher time required by such children. Many Task Force members were highly concerned over negative teacher reaction to mainstreaming. (see item 4)

3. DUE PROCESS

a. Definition

The law requires specific due process procedures as a part of the evaluation or placement of the child (or any change therein). These procedures include notice, a right to a hearing before an individual who is not a school employee, appeal to state agency, and the right to initiate a court action. The hearing procedures are employed after the parent exhausts available avenues of appeal within the school system (which may include appeal to the school board).

b. Comments

At the time the survey was conducted, none of the Task Force members were able to report any experience with the due process hearing procedures. However, one large city system expressed concern over the costs involved in hiring people to translate due process notifications into the many languages which are spoken in the area. Another school system was concerned that hearing officers who are familiar with the particular handicap and/or educational program at issue should be—but may not be—available for the various cases brought within the district.

Finally, several Task Force members felt that adequate due process protections existed prior to the implementation of the federal law. In such instances, it was felt that the federal procedures are too structured, adversarial in nature, and too time consuming for both parents and school system. To this concern one Task Force member responded, "The previous procedures depended upon the integrity of the school's personnel . . . The actual hearing process will be infrequently used if school personnel are totally honest with parents." The prevailing view seemed to be that the procedures are more than adequate, cumbersome, but worth it.

4. TEACHER REACTION

a. In the classroom

Generally, Task Force members believed that teachers were reacting favorably and enthusiastically to the new law. However, a number of serious problem areas were defined.

For example, the IEP process has resulted in additional conference time with parents and additional paperwork time. Once developed, many teachers perceived the IEP as a test of their own ability. This problem is heightened by the fact that special education children are the most difficult in terms of either predicting achievement or developing a workable approach for any particular child.

With respect to "least restrictive environment," regular classroom teachers were generally regarded as being "apprehensive" about mainstreaming. This apprehension is based upon (a) a lack of training in special education and (b) a sense of uncertainty in balancing scarce preparation and classroom time between special education students and other students. To some extent, teachers were expressing resentment over the increased workload posed by the new law.

Because of the large number of children currently being evaluated by professional staff, classroom teachers find that they are "going it alone" in working with special education students. For example, in some instances, school psychologists are not spending as much time as they should in guiding emotionally disturbed children or in advising the classroom teacher. Hence the latter carries the full burden of working with the child.

b. At the bargaining table

In instances where teacher preparation and classroom time are set by contract, their hours must be expanded or other services will be curtailed. Assum-

ing hours are expanded, several Task Force members expressed concern that salary increases or othertime payment would follow.

Two Task Force members indicated that teacher unions were seeking to have special students "weighted" for the purpose of determining maximum classroom enrollment. Several Task Force members indicated that teachers are planning to seek more in-service training at school system expense. Since more than half the school systems reporting in this area are providing in-service training to 100% of their professional staff, the issue appears to be one of providing more training, rather than of initiating in-service training for all teachers.

5. SPECIAL EDUCATION BUDGET

a. Definition

For the 1977–78 school year, each school system must, *to the maximum extent possible*, provide a free appropriate public education to all children in its district. Although this has posed additional costs, as students are located and evaluated during the course of this year, the impact will be even greater next year. Further, full service must be provided next year and efforts to remove physical barriers undoubtedly will be underway (June 1980 deadline).

b. Comment

The surveys revealed that school districts are increasing the portion of their budgets spent on special education. Overwhelmingly, the additional funds to expand special education services is derived primarily from the local tax base. The effort for special education is most dramatically expressed in terms of new employees. While the figures are too varied to yield meaningful ranges, most special education increases are being used for new staff, whereas general budget increases are yielding relatively fewer new professional employees.

6. ARCHITECTURAL BARRIERS

a. Definition

By June, 1980, school systems must make programs accessible to students and structures accessible to employees and the public. In addition to modifying existing structures, alterations and new buildings must be barrier-free.

b. Comment

During the time of the Regional Task Force meetings, school systems were preparing interim reports to determine those changes which are required for their buildings. Accordingly, the Task Force was not able to present hard data. However, among those who offered estimates, there was considerable divergence of opinion. For example, two school systems of 1600 and 5700 enrollment respectively, both estimated costs at $10,000. Other estimates were as follows: $5,000 per building, $500,000 for 15 buildings, $150,000 for a 4200 student enrollment, and $781,000 for a 10,500 student enrollment. (11 elementary schools, 4 middle schools, 2 junior high schools, 2 high schools, and 2 administration buildings.)

There were a number of factors that tended to influence these variations in cost estimates. For example, urban school systems tended to have multi-story structures. Hence, they require elevators which are usually the biggest cost item. In this regard, older school systems particularly are more in need of elevators and other general architectural modifications. Also, the extent to which intermediate school facilities are used is a factor. That is, if a school district has the services of an intermediate school district, its own achitectural requirements may be substantially reduced. Finally, since there are no precise standards for what makes a school program accessible, administrators have judged their needs differently, hence the estimates vary.

7. COMPLETION OF FORMS

a. Comment

The Task Force appeared unanimous on the point that the paperwork generated by the new laws, especially when placed in context with other administrative data, is burdensome. Completion of forms runs to such issues as IEP's, accountability reports (i.e., comparability, excess costs, and supplement/no suppiant), and state requirements which are superimposed upon federal requirements. At least for the first year, incompatability between state and federal classifications have created duplication in assembling as well as transcribing data.

8. STATE POLICIES/STATE PROGRAM

In this area, Task Force members expressed two types of concern. First, federal law does not take into account difficulties in reconciling variances with state law. In this regard, especially where state law goes as far or even further than federal law, the latter should be more flexible. Second, local school districts are seeking as much assistance as possible from the state level. While some states have provided excellent assistance, others are very poor in this area. The following state departments were given good marks by members of the Task Force: Arizona, California, Georgia, Iowa, Kansas, Minnesota, Oklahoma, Pennsylvania, Utah and Vermont. On the other side, state department operations in the following states were cited as needing improvement: Colorado, Illinois, New York, Ohio, and Oregon. Task Force members from Nebraska and New Jersey were negatively inclined but felt changes might be on the horizon.

Recommendations

The following recommendations were developed from the findings of the Task Force.

A. *National awareness.*—School board members across the nation should become aware of the requirements of both § 504 of the Rehabilitation Act and Public Law 94-142. Apart from being one of the foremost educational concerns of the day, there laws carry strong implications for the future of local governance in education.

B. *Program effectiveness.*—In addition to meeting the educational needs of children, the implementation of the federal laws are expensive and must be expeditiously achieved. Accordingly, school board members should be aware of the kinds of efforts (including demonstration programs) that are being made across the nation. Likewise, they should be aware of the kinds of services being provided by state departments of education—both within their own state and elsewhere.

C. *Federal and State legislative liaison.*—School board members should advise their federal and state representatives of their needs for financial assistance to implement the new mandates. Further, federal officials should be advised as to how the administrative requirements imposed by these laws may be unnecessarily diluting staff time, funds, or program options.

APPENDIX A

Central Region:
Mr. Emery G. Barrette
St. Paul, MN
Mr. James A. Carter
Carmel, IN
Mrs. Elaine W. Hirsch
Evanston, IL
Mrs. Mary Knauf
Chilton, WI
Dr. James J. LaPolla
Warren, OH
Mr. Brandt E. Van Maanen
Leighton, IA

Pacific Region:
Mr. Glenn Goodrich
Glendale, AZ
Dr. Jeanette Hamby
Hillsboro, OR
Mrs. Ilona J. Katz
Santa Monica, CA
Dr. Boyd J. Larsen
Lehi, UT
Ms. Carol Slavick
San Mateo, CA
Mr. Mark L. Wahlquist
Salt Lake City, UT

Northeast Region:
Mr. Arthur Bell
South Nyack, NY
Mrs. Sandra C. Cochran
Worton, MD
Mr. Carl M. Hofheinz
Pottstown, PA
Mr. Richard L. Ornauer
Merrick, NY
Ms. Elena J. Scambio
Newark, NJ
Ms. Frances M. Woodruff
Pittsburgh, PA

Southern Region:
Mrs. Elizabeth Blystone
Fall Church, VA
Mrs. Ruth Alice Campbell
Marathon Shores, FL
Mr. Preston Fussell
Jacksonville, GA
Mr. B. Edward Hursey
Darlington, SC
Dr. Percey H. LeBlanc
Donaldsonville, LA
Mrs. Mary Scroggs
Chapel Hill, NC

Western Region:
Ms. Carole A. Anderson
Greeley, CO
Mr. James L. Dennis
Oklahoma City, OK
Mr. Dave Hanson
Salina, KS
Dr. Ivan R. Nicholson
Holdrege, NE
Mr. John Rankine
Worland, WY

STATEMENT OF MARGARET S. BUVINGER, PRESIDENT, NATIONAL SCHOOL BOARDS ASSOCIATION

Ms. BUVINGER. I will be very, very brief. You have received our printed testimony, appended to it is a report of a task force which our association created in the 1977–78 school year which dealt with the implementation of Public Law 94–142.

I am Margaret Buvinger of Enid, Okla., representing the National School Boards Association, which in turn represents 90,000 local school board members.

Our association has, since the institution of Public Law 94–142, been very strongly in support of the implementation of this law. We seek to help our members learn how they can do the job of implementing it, and in turn we are bringing to you some of the concerns that our associations has in regard, not only to the funding, but some of the substantive issues. You can read those in my statement.

I would link up the fact that many of the people who have spoken and pointed out the need for in-service, for instance, so that all classroom teachers, in whose classrooms children are mainstreamed, will know how to deal with handicapped children.

Most of our teachers who are currently teaching have not had any training in special education, unless that is their field. We find that there is an unequal caseload which does create these roadblocks in the individualized education plans, the conferences which tend to come at the beginning of the school year, and which would require much more staff than you would need for a whole year.

We need to work out some means of either supplementing temporarily these forces, or spreading the caseload over the period of a whole year.

I think that one of our great concerns is in the matter of the hearing panels, which vary from State to State. We have at least four Western States in which the State has ruled that it is unconstitutional for there to be a hearing panel, and someone needs to explore this, and either make alternative means, or ways for those particular States.

I believe that those States are not listed specifically in the document, but they are Colorado, Wyoming, Utah, and New Mexico. There are perhaps others, but we know of those four which have reported to us.

We feel that the commitment to funding 30 percent of excess costs is certainly not excessive in this day and age of many States having passed tax limitations, which means that there is a very real cap on the amount of money which local districts can raise.

Funding of special education programs of all kinds has always been expensive, and the total commitment toward educating all handi-

capped children does require the funding commitment of the Federal Government as well as the local districts and the State.

We have to work in partnership in order to accomplish these things, and we think that it is highly important.

We are also very concerned about funding for the removal of architectural barriers. In a study that we did last year, we found that many of our States reported extensive need for this. I think that this varied from district to district across the country, but many of them have very expensive problems to correct. With no funding available, and with the difficulty to passing local bond issues, which is frequently the only other sources of funds, we feel that it would be essential that we have some money available from the Federal Government, at least for unusual cases where no other source of funding can be found.

As I said at the outset, we are very much in support of the entire movement. We would like to see it fully funded by all concerned, and we will do our best as an association to bring about these things.

Thank you, Mr. Chairman, for the opportunity to be with you.

Mr. SIMON. Thank you very much, both for your content and your brevity. I appreciate both.

I will try to be brief in my questions, and if you can be brief in your response to those questions.

Mr. Morris, you mention that in the State of Georgia there are 14,000 children on the waiting list for evaluation. Is that list growing, or is it diminishing?

Mr. MORRIS. I think that it would be growing. Again, this is just a guess for the State of Georgia, but how many children have not been identified at all? This is probably for two reasons: The fear of local systems to be out of compliance, and again the sort of subtle and sometimes not so subtle pressure from local administrators to regular and special education teachers not to identify related service needs for handicapped children.

Mr. SIMON. But the 14,000 you are talking about, are children that have been identified, but need diagnostic services. Is that correct?

Mr. MORRIS. That is correct.

Mr. SIMON. The point you make on the hearing examiner for the four States is one that we will follow through on. I think that it is an excellent point. This is a problem that we were not familiar with.

Mr. Trites, in the case of Martha, I am just curious are her parents pushing for action, or are they not?

Mr. TRITES. No: the parents are not particularly pushing for action at all, mostly due to the very great fear they have that, in point of fact, to provide any more extensive program at all to Martha would jeopardize her life.

It would be my opinion—there are long series of what I would say are probably less than adequate medical advice that has been given to them. It is very difficult to define an environment in which one can work with the parents in order to get them to broaden their horizons.

In fact, in the particular instance of the very limited educational program that Martha has received—that is some individual tutoring by some of the staff at the training center—when that has been taken to the parents, the parents have said: "What is the point? Why do that?"

So there is a tremendous need in terms of parental education in situations of the sort that Martha is in, which is very graphic.

Mr. SIMON. Mrs. Kendrick, on your son, I have to say that I was a little confused about the school districts in which your son was being educated, and why he cannot receive assistance now as he should in the integrated setting there.

Do you continue to live in the same place, or are you talking about a larger school district in Madison?

Mrs. KENDRICK. I am sorry that I was not clear on that. We live in a small community outside of Madison, and have ever since Matthew started school. The smaller school district has never served Matthew.

Prior to the implementation of the new law, they did not serve anybody there. There are beginning to serve children and are doing a very fine job, slowly growing and developing. So Matthew has always been served by the Madison school district.

As a result of Public Law 94–142 and chapter 115 of the Wisconsin law, he must be evaluated by the local school district in the district where he lives. Then the decision made for placement. The recommendation of the local school district has been that he be continued to be served in the Madison school system since he has now been there for 12 years, has friends, is mainstreamed, and needs to be with his able-bodied peers as well as others, in a system where he is known rather than move to a new system.

So what we are finding, and it is going to come up more and more, I am sure, is that when the parents and the local school district are in harmony, in agreement as to what is appropriate for the child, but the receiving school district decides that it is not appropriate, there is no recourse for the parents or for the local school district.

I did not come with any suggestions as to how this might be remedied because we really have not sorted it out. It is a difficult issue that is going to have to be dealt with carefully. But it is an issue. I think, that is going to come up more and more as parents and local school districts find themselves in that kind of a situation.

Mr. SIMON. Mr. Bowe, there are obviously serious deficiencies in the area of vocational education. Do you find some groups are helped more readily than others to broaden vocational education programs?

Mr. BOWE. I think in vocational education, those who are not very disabled, are those that are brought in and assisted. Those who seem to be more readily educated. Practically, Mr. Chairman, vocational education is conducted by people who are workers, people who worked for 20 or 30 years in a machine shop, or something like that. Now they are teaching. These are not people who are trained in special education by any means.

What normally happens, and I believe that I am correct when I say that 80 percent of that 1.7 percent is placed in totally segregated settings, maybe a garage or a small building somewhere outside of town. If you are handicapped, you go there regardless of what your needs are.

No children who are disabled, or have any kind of disability are incorporated into the modern, very well equipped vocational technical centers that are run by the different school districts.

There seems to be a problem of severe disability being completely ignored.

Mr. SIMON. Ms. Buvinger, you heard my earlier question, I believe, to an earlier witness. Our full committee has requested of the Budget Committee a 20-percent funding level. But one of the things I hear from some staff people is, in fact, that the difference between 12 percent and 20 percent is really going to provide help for handicapped young people, or is it going to provide assistance to schools and to the States that can use that funding in other ways.

Ms. BUVINGER. I don't believe that there would be any question of it being used in other ways. I think that it would be used to help handicapped as long as there are handicapped children to be found.

I think that there are undoubtedly districts which have not done the right thing by them, but most of the districts in the country are trying in good faith to find them, and their capacity to find them sometimes is limited by the availability of funds.

The actual funding of the full resources that are needed to deal with severely and multiply handicapped children is so great that an additional 8 percent, or 10 percent beyond that, will still not cover all the costs.

The kinds of concerns that have been raised here are due in part to the fact that there is no way that a school district, particularly going into it right at the onset, can offer a full range of facilities for all kinds of handicapped out of its own resources, and with the very meager level of excess cost funding which is currently coming.

There is no possible way that this can be implemented for all the kinds of things that need to be done. It is a very complex situation. The larger cities, where they have enough numbers of different categories, it will be a somewhat different problem, but in the middle-size school district in the country, particularly where they have many needs and only a few of each, it is a very complex problem.

I think that these needs need to continue to be funded, not only for the startup costs, but the ongoing costs of one or two students per teacher, for instance, where we generally talk in terms of 25 to 30 students per teacher for normal students. As you can see by the simple process of arithmetic, that percentage is not going to cover the cost of the teacher in the classroom without the supplemental services which are so essential to a really good educational program.

Mr. SIMON. You have answered this question, but let me rephrase it. The movement from 12 percent to 20 percent, or as your association has suggested, to 30 percent, will that increase the numbers of young people served or will it increase the quality of services to them, or will it do both?

Ms. BUVINGER. We hope that it will do both as long as there are undiscovered handicapped children who need to be served. At the point that everyone is identified, it will fund a vast number of resources that are needed to give the kind of education that those children deserve.

Mr. SIMON. Thank you.

Mr. Steinhilber?

Mr. STEINHILBER. August Steinhilber of the National School Boards Association. There is another particular problem that the Administration has tried to place everybody in, and that particular problem is called the numbers game. If you have 12 percent of the youngsters identified, you, obviously, then, get 12 percent funding level.

When Public Law 94–142 was first enacted, the money that was to go to the locals was to be increased each year. Therefore, we had the sliding scale. The reason for the agreement of going on the sliding scale for each year until it finally ends at 40 percent of excess costs, not total costs but 40 percent of excess costs, was on the grounds that both the number of children would be increased up to a point, but beyond that the services would have to be increased.

The mere fact that we have come to a plateau on the number of children, it does not mean that the services should not be increased on top of that. That is the problem, when we start talking about the numbers game, when we come to that circle.

Mr. SIMON. We thank all of you very, very much. We appreciate your testimony.

This concludes this hearing.

[Whereupon, at 12:05 p.m., the subcommittees adjourned to reconvene at the call of the Chair.]

[Additional material submitted for the record follows:]

CHIEF STATE SCHOOL OFFICERS,
April 23, 1979.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. PERKINS: On behalf of the Council of Chief State School Officers and the National Association of State Boards of Education, we would like to commend you for your continued interest and leadership in the programs authorized under Public Law 94–142, the Education for All Handicapped Children Act, and in the educational needs of handicapped children.

The commitment to the goal of providing a "free appropriate public education" is shared by Federal, state and local education officials. On the Federal level, the mandates of Public Law 94–142 and the increased Federal support for these programs demonstrate a real concern for meeting the needs of handicapped children. On the state level, State resources being channelled to special education programs have increased dramatically in the past three years. Forty-nine States have elected to participate in the partnership with the Federal Government to provide quality educational services to handicapped children.

As with any new program, however, problems arise in the initial implementation stages which may or may not have been foreseen. These concerns fall into two categories: budgetary and programmatic. Clearly, the massive infusion of funds necessary to carry out the mandates of Public Law 94–142 is a major issue which must be confronted. Governments at all levels are trying to respond to public demands to cut spending and balance budgets. These demands, however, must be weighed against the long term goals we have set for ourselves and how best we can develop our nation's resources for the future. We believe that educating handicapped children and youth will prove to be one of our most worthwhile investments.

As you know, Public Law 94–142 authorizes grants to assist state and local education agencies in providing appropriate educational services to handicapped children. Each state is authorized to receive an amount equal to the number of handicapped children aged 3–21 receiving special educational services in the state multiplied by 5 percent of the national average per pupil expenditure in fiscal year 1978; 10 percent in fiscal year 1979; 20 percent in fiscal year 1980; 30 percent in fiscal year 1981; and 40 percent in fiscal year 1982. These authorizations were fully funded in the first two years. In fiscal year 1979, however, only 12 percent of the national average per pupil expenditure was appropriated and the President has recommended that this 12 percent level ($862 million) be maintained.

The actual cost of providing services to handicapped children must be examined, however, to illustrate the true contributions of state and Federal Governments. Table I is a twenty state sampling of the costs of special education services and the percentage of cost represented by the Federal share. The national average per pupil expenditure (NAPPE) for fiscal year 1979 is $1,700. The NAPPE for Handicapped is $3,400. True excess cost of educating a handicapped child is $1,700 and 12 percent of that cost is $204. The remaining 88 percent of excess cost ($1,496) is being underwritten with state funds and the actual state contribution to providing a free appropriate public education to a handicapped child is $3,196 per child. Table II shows the disproportionate discrepancy in the federal and state funding levels for educating handicapped children in five sample states. For example, the excess cost to educate handicapped children in the state of Kentucky amounts to $94,305,750. The Federal share (at the present 12 percent level) amounts to $12,316,500. The remaining 88 percent $81,989,250) represents the state contribution. The burden for underwriting this cost rests with the taxpayers in the state of Kentucky. We believe, therefore, that our request for increased funding level is not unreasonable.

We are also concerned about the proposals regarding Public Law 89-313 which provide assistance to states serving handicapped children in state operated and administered institutions and programs. The proposed "cap" on funds and the elimination of the "set-aside" would represent an enormous added financial burden on states. Table III illustrates the shortfall which would be experienced by twenty states. The loss of these funds should the allocation be frozen at the 1979 level will further diminish our capacity to provide quality services to our Nation's children and youth.

We strongly urge, therefore, that Public Law 94-142 be funded at least at the 20-percent level and that the authorization for Public Law 313 be fully funded.

Sincerely,

A. CRAIG PHILLIPS,
President, CCSSO.
ADRIENNE BAILEY,
President, NASBE.

TABLE I.—EXCESS COST FOR EDUCATING HANDICAPPED CHILDREN UNDER PUBLIC LAW 94-142

A		B	C		D	E	F	G	H	
			APPE handicapped						Federal share excess cost	
State	DHEW region	APPE (estimated fiscal year 1979)	1½×APPE (1)	2×APPE (2)	NAPPE (estimated)	NAPPE-handicapped (estimated)	Estimated excess cost[1]	Total estimated excess cost[2]	12 percent ($204) (1)	20 percent ($340) (2)
California	IX	$1,783	$2,675	$3,566	$1,700	$3,400	$1,783	1,783×330,021=588,427,443	67,324,284	112,207,140
Colorado	VIII	1,888	2,832	3,776	1,700	3,400	1,888	1,888×44,000=83,072,000	8,995,000	1,496,000
Florida	IV	1,778	2,667	3,556	1,700	3,400	1,778	1,778×121,368=215,792,304	25,758,072	41,265,120
Idaho	X	1,415	2,123	2,830	1,700	3,400	1,415	1,415×18,080=25,587,350	3,690,360	6,150,600
Indiana	V	1,545	2,318	3,090	1,700	3,400	1,545	1,545×90,442=139,732,890	18,450,168	30,750,280
Kansas	VII	1,894	2,841	3,788	1,700	3,400	1,894	1,894×35,605=67,435,870	7,263,420	12,105,700
Kentucky	IV	1,562	2,343	3,124	1,700	3,400	1,562	1,562×60,375=94,305,750	12,316,500	20,527,500
Louisiana	VI	1,671	2,507	3,342	1,700	3,400	1,671	1,671×83,192=139,013,832	16,971,168	28,285,280
Maine	I	1,586	2,379	3,172	1,700	3,400	1,586	1,586×21,833=34,627,138	4,453,932	7,423,220
Massachusetts	I	2,228	3,342	4,456	1,700	3,400	2,228	2,228×126,820=282,554,960	25,871,280	43,118,800
Michigan	V	1,922	2,883	3,844	1,700	3,400	1,922	1,922×153,899=295,793,878	3,395,396	52,325,660
Missouri	VII	1,625	2,438	3,250	1,700	3,400	1,625	1,625×96,104=156,169,000	19,605,216	32,675,360
Nevada	IX	1,682	2,523	3,364	1,700	3,400	1,682	1,682×10,624=17,860,568	2,167,296	3,612,160
New Jersey	II	2,570	3,855	5,140	1,700	3,400	2,570	2,570×144,424=371,169,680	29,462,496	49,104,160
New York	II	2,759	4,139	5,518	1,700	3,400	2,759	2,759×179,790=496,040,610	36,677,160	61,128,600
Oklahoma	VI	1,630	2,445	3,260	1,700	3,400	1,630	1,630×55,874=91,074,620	11,398,296	18,997,160
Oregon	X	2,128	3,192	4,256	1,700	3,400	2,128	2,128×36,456=77,578,368	7,437,024	12,395,040
Pennsylvania	III	2,315	3,473	4,630	1,700	3,400	2,315	2,315×171,609=397,274,835	35,008,236	58,347,060
South Dakota	VIII	1,662	2,493	3,324	1,700	3,400	1,662	1,662×9,200=15,290,400	1,876,800	3,128,000
Virginia	III	1,808	2,712	3,616	1,700	3,400	1,808	1,808×83,841=151,584,528	7,103,564	28,505,940

[1] Estimated excess cost per handicapped child (based on 2 times APPE), col. C2.

[2] Total estimated excess cost (estimated excess cost per handicapped times Public Law 94-142 child count).

TABLE II.—FEDERAL-STATE SHARE OF EXCESS COSTS FOR EDUCATING HANDICAPPED CHILDREN

State	Excess cost	Federal share of excess cost		State contribution	
		12 percent funding level	20 percent recommended authorization	68 percent	80 percent
California	$588,427,443	$67,324,284	$112,207,140	$521,103,159	$476,220,303
Kentucky	94,305,750	12,316,500	20,527,500	81,989,250	73,778,250
Michigan	295,793,878	31,395,396	52,325,660	264,398,482	243,468,218
Oklahoma	91,074,620	11,398,296	18,997,160	79,676,324	72,077,460
Pennsylvania	397,274,835	35,008,236	58,347,060	362,466,599	338,927,775

TABLE III.—PUBLIC LAW 89-313 FUNDING LEVELS FOR FISCAL YEARS 1979 AND 1980

State	DHEW region	Number of handicapped children served under Public Law 89-313 (all ages)	Fiscal year 1979 appropriation of $612 per child	Fiscal year 1980 appropriation of $677 per child	Projected loss of funds
California	IX	5,352	$3,275,424	$3,623,304	$347,880
Colorado	VIII	3,358	2,055,096	2,273,366	218,270
Florida	IV	6,360	3,892,320	4,305,720	413,400
Idaho	X	543	332,316	367,611	45,295
Indiana	V	6,280	3,843,360	4,251,560	408,200
Kansas	VII	1,920	1,175,040	1,299,840	124,800
Kentucky	IV	2,631	1,610,172	1,781,187	171,015
Louisiana	VI	5,934	3,631,608	4,017,318	353,710
Maine	I	1,592	974,304	1,077,784	103,480
Massachusetts	I	14,490	8,867,880	9,809,730	941,850
Michigan	V	12,323	7,541,676	8,342,671	800,995
Missouri	VII	3,810	2,331,720	2,579,370	247,650
Nevada	IX	462	282,744	312,774	30,030
New Jersey	II	7,925	4,850,100	5,365,225	515,125
New York	II	18,076	11,062,512	12,237,452	1,174,940
Oklahoma	VI	1,774	1,085,688	1,200,998	115,310
Oregon	X	3,832	2,345,184	2,594,264	249,080
Pennsylvania	III	14,338	8,774,856	9,706,826	931,970
South Dakota	VIII	680	416,160	460,360	44,200
Virginia	III	3,311	2,026,332	2,241,547	215,215